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DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Part 1944

Section 502 Rural Housing Loan Policies, Procedures, and Authorizations

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations regarding its section 502 Rural Housing program. The action is taken to implement provisions of the Rural Housing Amendments Act of 1983 which amended Title V of the Housing Act of 1949 and to revise certain sections to further simplify and clarify the regulation. The intended effect of this action is to more equitably provide the financial assistance to those most in need of housing and to expedite the processing of loans for such assistance.

EFFECTIVE DATE: January 14, 1987.

FOR FURTHER INFORMATION CONTACT: Frank Colon, Chief, Homeownership Branch, Room 5342, Telephone (202) 382–1482 or Nancy Monesson, Room 5334, Telephone (202) 382–1474, at the following address: Single Family Housing Processing Division, Farmers Home Administration, USDA, South Agriculture Building; 14th and Independence Avenue, SW., Washington, DC 20250.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Departmental Regulation 1512–1 which implements Executive Order 12291 and has been determined to be "nonmajor" since the annual effect on the economy is less than $100 million and there will be no increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. There will be no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This action will not create any significant record keeping or reporting burdens or substantially increase costs to the Government and the public.

The amendment incorporates provisions of the Rural Housing Amendments of 1983 and updates and clarifies several sections of the regulation.

Discussion of Final Rule

On April 22, 1986, FmHA published a proposed rule in the **Federal Register** (51 FR 15010–15012) with a 60-day comment period ending June 21, 1986, and on May 28, 1986, published in the **Federal Register** (51 FR 19217–19218) a correction to the proposed rule. In response to the notice of proposed rule making, 4 comments were received from a variety of public and private groups and persons. All of the information received from the respondents was very appropriate and helpful in the preparation of this final rule; however, not all changes recommended could be adopted.

The final rule remains as originally published in the proposed rule, except as changed due to some of the comments received and a sentence relative to completion of the first 5-year review which was inadvertently omitted from the proposed rule and which is now inserted between the first and second sentence of § 1944.10(f). All comments and changes are discussed below:

1. *Sections 1944.10 (a) and (b).* One respondent requested that the phrase "or associated with" in paragraph (a)(1), in the introductory part of paragraph (a)(2), and in the first sentence of paragraph (b), be substituted by the phrase "although associated with". The reason given for the request is that ". . . in Puerto Rico the rural zones or areas although not part of the urban zones, are related to these because they are included in the geographic jurisdiction assigned to urban centers for the purpose of political and social service organization."

No action was taken on the request in that this specific item of the regulation is not now being amended. The phrase "or associated with" is not changed from the current regulation. Furthermore, the words are taken verbatim from the first sentence of section 520 of the Housing Act of 1949 and cannot be changed within the regulations as this is a legislative requirement for area eligibility.

2. *Section 1944.10(b).* One respondent suggested the word "small" be inserted before the phrase "areas reserved for recreational purposes" in the third sentence of paragraph (b) and indicated that some recreational areas are very sizeable and constitute a legitimate separation of rural and urban areas.

We adopted this item as suggested and the phrase now reads, ". . . small areas reserved for recreational purposes."

3. *Section 1944.10(d).* One respondent pointed out a problem with the use of "recent maps and aerial photographs in taking population count in an area as set forth in the introductory part of paragraph (d), and indicated that maps and aerial photographs are not population count sources.

We agree that the phrase "current maps and aerial photographs" may tend to create confusion if left in paragraph (d), and that it should be used only as a guide in locating boundaries between rural and non-rural areas. The phrase was removed from paragraph (d) and inserted at the end of the first sentence of paragraph (f)(1) to read as follows, "The review will be based on the considerations set forth in paragraphs (a) through (e) of this section and may be facilitated by the use of recent maps and aerial photographs."

4. *Section 1944.10(h).* A respondent pointed out that "It would not appear necessary to issue maps and lists for a County if the entire County is eligible, having no urban areas. To identify and list all eligible areas within a State as proposed will be quite involved and time consuming. . . . In this regard, we ask that consideration be given to preparing maps only for counties having ineligible areas."

We agree with the respondent that it would be simpler to publish maps and lists only for those counties having ineligible areas. To this end, we revised paragraph (h) by deleting the first two sentences and rewording the rest of the paragraph to require the display of

County maps in the County Supervisor's office and to require the production of maps and lists only for ineligible areas, to be used for distribution.

5. *Section 1944.25(c)(2).* One respondent indicated that the proposal to extend the term of a section 502 mortgage from 33 to 38 years is not the right approach to make mortgages affordable for families with very low-income. The respondent also indicated that "The difference in monthly payments between a 33-year, $20,000 loan at 1 percent and a 38-year, $20,000 loan at a 1 percent is only $6.60/monthly. A savings of $6.60 per month will not make or break the very low-income homeowner. It is the costs of property taxes (New York State, for example), utilities, insurance, home maintenance, etc., that make it difficult for families with very low-incomes to afford their own homes . . . . Decent, safe, and sanitary housing does not necessarily mean that every individual should be a homeowner. Alternative housing (i.e. apartments, duplexes) would perhaps be more viable in providing decent, safe, and sanitary housing to the very low-income families."

The average loan made by FmHA during FY–85 for existing and new dwellings was approximately $40,000. This figure, therefore, is a more accurate reflection of cost than the $20,000 loan used by the respondent in the example given, making the average savings per month $13.20 rather than $6.60. This is still small savings, however, the important thing is that by increasing loan account maturity to 38 years, a number of new loan applicants who previously did not show repayment ability will now be eligible as they will now be able to repay the section 502 Rural Housing loan. We must add that this amendment to the regulations is made in accordance with an amendment to the Housing Act of 1949, and we are exercising limited discretion specifically authorized by Congress. The respondent's request to consider other solutions for making mortgages available to very low-income families will be considered in future regulation revisions not as limited in scope as this one.

This document has been reviewed in accordance with 7 CFR Part 1940, Subpart G, "Environmental Program." It is the determination of FmHA that the proposed action does not constitute a major Federal action which significantly affects the quality of the human environment and, in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an environmental impact statement is not required.

This program/activity is listed in the Catalog of Domestic Assistance under No. 10.410. For the reasons set forth in the Final Rule related notice to 7 CFR Part 3015, Subpart V, 48 FR 29115, June 24, 1983, this program/activity is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Vance L. Clark, Administrator, has determined that this action will not have a significant economic impact on a substantial number of small entities because the action will only slightly affect a small number of rural communities.

List of Subjects in 7 CFR Part 1944

Home improvement, Loan programs—Housing and community development, Low and moderate income housing—Rental, Mobile homes, Mortgages, Rural housing, Subsidies.

Therefore, Subpart A of Part 1944, Chapter XVIII of Title 7, Code of Federal Regulations is amended as follows:

PART 1944—HOUSING

1. The authority citation for Part 1944 continues to read as follows:

Authority: 42 U.S.C. 1480; 7 CFR 2.23; 7 CFR 2.70.

Subpart A—Section 502 Rural Housing Loan Policies, Procedures and Authorizations

2. In § 1944.10, paragraph (g) is redesignated as (i); paragraphs (a), (b), (c), (d), (e) and (f) are revised and a new paragraph (g) and parapraph (h) are added to read as follows:

§ 1944.10 Rural area designation.

(a) For the purpose of this subpart, a rural area is:

(1) Open country which is not part of or associated with an urban area.

(2) Any town, village, city or place, including the immediately adjacent densely settled area, which is not part of or associated with an urban area and which:

(i) Has a population not in excess of 10,000 if it is rural in character, or

(ii) Has a population in excess of 10,000 but not in excess of 20,000, and

(A) Is not contained within an MSA, and

(B) Has a serious lack of mortgage credit for low- and moderate-income households as determined by the Secretary of Agriculture and the Secretary of Housing and Urban Development.

(b) A determination that open country, or any town, village, city, or place is not part of or associated with an urban area must include a finding that any densely populated section of the area in question is separated from the densely populated section of any adjacent urban area by open spaces. Open spaces include undeveloped, agricultural, or sparsely settled areas. Other spaces such as physical barriers (e.g., rivers, canals), public parks, commercial and industrial developments, small areas reserved for recreational purposes, recognized open spaces for which the existence of plans for development in the near future (3 to 5 years) is known, and similar nonresidential areas, are not considered open spaces for the purpose of this program.

(c) Two or more towns, villages, cities, and places may have contiguous boundaries, and each will be considered separately if they are not otherwise associated with each other, and their densely populated areas are not contiguous, as determined after consideration of paragraphs (a) and (b) of this section.

(d) Population count in any area will be taken from the decennial U.S. Census of Population, national population updates published by the Bureau of the Census, any special population census conducted by the Bureau of the Census, and the following:

(1) Significant new development on the periphery of ineligible areas which require change in boundaries.

(2) Redesignation of corporate limits by local authorities which affect the eligibility status of an area.

(e) In determining population count for area eligibility, consideration must also be given to developed areas in counties or states which are contiguous to and, therefore, a part of developed areas in other counties or states. This determination must be made in agreement between the State Directors concerned.

(f) In order to ensure that the rural housing program is limited to eligible rural areas, the County Supervisor, in consultation with the District Director, will conduct a review of all areas under his/her jurisdiction every 5 years. The first 5-year revision must have been completed by FY–86. More frequent reviews may be conducted as needed. The following criteria will apply:

(1) The review will be based on the considerations set forth in paragraphs (a) through (e) of this section and may be facilitated by the use of recent maps and aerial photographs. A report on the review with recommendations will be signed by the County Supervisor and the District Director and submitted to the State Director on or before February 28 of the review year.

(2) Based on the recommended changes provided by the County Supervisor and the District Director, the State Director will:

(i) Make the public aware that a study will be conducted for those areas that may change from rural to nonrural. The State Director should, where the State Director determines it practicable, publish in local newspapers, pre-notices of the review actions for the information of interested parties, at least 180 days prior to final determination. It can be anticipated that the study may take 6 months before a decision will be made.

(ii) If the study shows that an area is not rural, limit the rural housing program in that area after the date of the decision, to the loan purposes prescribed in paragraph (i) of this section.

(iii) Request authorization from the National Office (Attention: Chief Homeownership Branch, SFH/PD) for changes, if the study shows new areas exceeding 10,000 but not exceeding 20,000 [as defined in paragraph (a)(2)(ii) of this section] that will be identified as eligible rural areas.

(iv) Upon completion of the study, and prior to September 30 of the review year, update, establish, and issue by State Supplement, lists and maps of all *ineligible areas* under his/her jurisdiction.

(g) In addition to the review of eligible areas prescribed by this section, the State Director is responsible for the implementation of changes in all areas under his/her jurisdiction resulting from the decennial Census of Population (including biannual updates, if available). The State Director will take immediate action on these changes after receipt of the information from the Bureau of the Census through FmHA. These changes and other immediate changes for cause directed by the Administrator must be implemented without delay, since advance notice to the public in such situations is impracticable.

(h) The State Office will provide current County maps to be displayed in the County Supervisor's office and prepare and distribute to the county offices an adequate number of copies of maps and lists of *ineligible areas*, to be displayed in the County Office and to be used as handouts, as requested, to inform the public of those areas not served by the Agency. These may be sections of maps showing only the ineligible area and the immediate eligible area surrounding the outside of the ineligible area boundary. Maps for counties without ineligible areas will be labeled "NO INELIGIBLE AREAS" at the bottom center of the map.

* * * * *

§ 1944.11 [Amended]

3. In § 1944.11(a), remove the reference "§ 1944.10(g)" and insert in its place, "§ 1944.10(i)."

4. In § 1944.25, paragraphs (a), and (c) are revised to read as follows:

§ 1944.25 Rates, terms, and source of funds.

(a) *Source of funds.* All loans financed under this program will be funded from the Rural Housing Insurance Fund (RHIF).

* * * * *

(c) *Amortization.* Loans will be scheduled for repayment over a period that will not exceed the expected useful life of the property as a dwelling to assure the loans are adequately secured. Only one of the amortization periods listed in this paragraph may be used for a borrower. Each loan will be scheduled for repayment from the date of the promissory note, for a period not to exceed one of the following:

(1) 33 years for initial and subsequent loans, except as otherwise indicated in this section.

(2) 38 years for initial loans (subsequent loans may be made for a period not to exceed the remaining years of the initial loan) to applicants whose adjusted annual incomes do not exceed 60 percent of the median income for the area, if necessary to show repayment ability (as reflected by comparing the annual installment for repayment at 1 percent interest with the resulting repayment ability figure of a completed Form FmHA 431–3, "Household Financial Statement and Budget"). Adjusted income limits for eligibility for the 38-year term appear in Exhibit C of FmHA Instruction 1944–A (available in any FmHA office).

(3) 30 years for manufactured homes.

(4) 25 years for Repair and Rehabilitation loans as set forth in § 1944.34(f)(6)(iii) of this subpart.

(5) 10 years for loans not exceeding $2,500 which are not secured by a real estate mortgage.

* * * * *

5. Section 1944.45 is amended by revising paragraphs (f)(3)(ii) and (f)(5), to read as follows:

§ 1944.45 Conditional commitments.

* * * * *

(f) * * *

(3) * * *

(ii) Determine whether the dwelling and site meet the requirements of this subpart and Subpart A of Part 1924 of this chapter and will comply with all local codes and ordinances. The use of construction contracts with conditional commitments is optional. The property must meet the requirements of Subpart D of Part 1804 of this chapter (FmHA Instruction 424.5).

* * * * *

(5) *Conditional commitment approval.* The State Director, District Director, County and Assistant County Supervisors are authorized to approve conditional commitments provided the commitment price does not exceed the loan approval authority for section 502 RH loans as outlined in Subpart A of Part 1901 of this chapter. If the conditional commitment is granted, the loan approval official will complete and sign Form FmHA 444–11, "Conditional Commitment." When a qualified applicant applies for a loan to buy a dwelling on which a conditional commitment has been issued, the application file will be transferred to the conditional commitment folder.

* * * * *

Dated: September 19, 1986.

Vance L. Clark,

Administrator, Farmers Home Administration.

[FR Doc. 86–28060 Filed 12–12–86; 8:45 am]

BILLING CODE 3410–07–M

Food Safety and Inspection Service

9 CFR Part 327

[Docket No. 85–010F]

Proportionate Sampling; Deletion of Provision

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: On July 22, 1986, the Food Safety and Inspection Service (FSIS) published a proposed rule (51 FR 26258) to amend § 327.21 of the Federal meat inspection regulations (9 CFR 327.21). This section contains provisions for inspection of imported chilled fresh and frozen boneless manufacturing meat; it also has contained provisions allowing the use of proportionate sampling under certain conditions for these meat products. FSIS proposed to delete all references to the use of proportionate sampling for boneless manufacturing meat because this form of sampling is outmoded and incompatible with the Agency's Automated Import Inspection System. FSIS is adopting the proposal as published. This action will assure that all imported meat products are inspected in a uniform manner and on an equitable basis.

EFFECTIVE DATE: January 14, 1987.

FOR FURTHER INFORMATION CONTACT: Patricia Stolfa, Deputy Administrator, International Programs, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-3473.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Administrator has determined in accordance with Executive Order 12291 that this rule is not a "major rule." It will not result in an annual increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions. It will not have a significant effect on competition, employment, investment, productivity, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. The rule eliminates a current provision in the regulations that provided an unwarranted advantage for foreign producers and importers of boneless manufacturing meat that was not afforded producers and importers of other imported meat products.

Effect on Small Entities

This rule eliminates a current provision in the regulations that provided an unwarranted advantage for foreign producers and importers of boneless manufacturing meat that was not afforded producers and importers of other imported meat products. Further, rejected imported product is generally covered by insurance or payment is not made until product passes inspection. Under the circumstances, the Administrator has made a determination that this rule will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601 *et seq.*)

Background

Under the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*), the Food Safety and Inspection Service (FSIS) is responsible for assuring that imported meat products meet the standards that are applied to domestic meat products. FSIS performs this responsibility by conducting two primary activities: (1) The review of foreign inspection systems to evaluate and determine the at least equal to eligibility of countries wishing to export to the United States, and (2) port-of-entry reinspection of imported meat products to verify the effectiveness of foreign inspection programs.

In particular, under § 327.6 of the Federal meat inspection regulations (9 CFR 327.6), all meat products offered for importation are subject to sampling and reinspection in conjunction with the risk-based programs of the Automated Import Inspection System (AIIS). The AIIS provides a data base which allows different ports-of-entry (POEs) to share information on inspection results for all imported meat and poultry products. The AIIS also prescribes inspection types and intensities based on the individual foreign plant's performance record and the nature and volume of the product shipped. In addition, the AIIS tracks the inspection record of a particular imported product at all POEs. If a problem is found in a product at one port, the system locates shipments of product from the same plant at other ports so that the AIIS can issue intensified inspection plans.

Port-of-entry inspection in the United States by FSIS is actually reinspection of product previously inspected in the country of origin and serves as a means for assuring that the foreign country's inspection system continues to produce products that meet standards at least equal to those applied to product produced by inspected establishments in the United States.

History of Proportionate Sampling

The use of proportionate sampling techniques for lots of boneless manufacturing meat was proposed in August 1968 (33 FR 12259) and was adopted as a final rule on January 20, 1969. The purpose of this action according to the "Statement of Considerations" was to eliminate costly reinspections, including resampling, for boneless manufacturing meats. Past policy had allowed an importer whose lot had been refused entry to

> sort out identifiable portions of the lot which contain the defects, reexport or render these portions incapable of use as human food, and resubmit the balance of the lot for reinspection (including resampling) for acceptance for entry. . . . Equal protection will be afforded to consumers of meat products and unnecessary inspection costs will be avoided . . . when a portion of the lot offered for importation is identified as consisting of a different type of meat or as having been prepared in a different production run than the remainder of the lot. In such cases, an evaluation of the inspection findings for each portion separately will result in a more valid disposition of the product in each portion. The procedures are also appropriate in case of prolonged delay in unloading from ships any large lot of product consisting of several such portions offered for inspection. (33 FR 20033)

These regulations were promulgated in response to shipping practices then in existence. Formerly, it was a trade practice to bulk ship in boxes, in no particular order, various cuts of beef. These boxes were designated as containing "beef"; no further distinctions (i.e., specific cuts) were made. For example, products designated as "beef" could include sirloin tips, shanks and boneless manufacturing meat. Therefore, the bulk product was broken down into separate lots and sampled according to the proportions of each cut.

With the advent of containerized shipping practices, each product type could be and is now placed and identified in a separate container. In conjunction with shipping changes, FSIS began developing product codes for each type or cut and species of product being offered for importation. Since each type of product has a separate code, one code equals one lot of a singular product for inspection purposes. This code system effectively eliminates the need for breaking down and sampling bulk "beef" shipments.

GAO Review of Proportionate Sampling

On June 15, 1983, the Comptroller General issued report GAO/RECD-83-81, "Improved Management of Import Meat Inspection Program Needed," which included a recommendation that FSIS enforce an internal task force recommendation to end proportionate sampling. The Agency made a commitment to do so and subsequently reported on its progress in accomplishing this. References to proportionate sampling have been deleted from the inspector's manual, and elimination of this practice has been stressed in training for import inspectors. The final action necessary to complete this process is this rulemaking, which deletes the now obsolete authorization for proportionate sampling.

Current Regulations and Practices

Current regulations had not been revised to reflect changed shipping practices and developments in the POE inspection system. Therefore, regulations authorized proportionate sampling even though the need for such a procedure had disappeared.

Under § 327.21 of the Federal meat inspection regulations (9 CFR 327.21), importers have been able to request special treatment for portions of refused entry lots of boneless beef which could be identified by different code marks, shift marks or production runs. These portions could not be the source of the defects which caused rejection. For instance, if a lot composed of two types

of boneless beef (e.g., shanks and rounds) was rejected due to defects discovered in randomly selected samples that came from only one of the types (e.g., shanks), § 327.21 has permitted the importer to sort out the rounds and have them enter U.S. commerce as inspected and passed because no defects were found. An importer could also request such treatment on an initial product evaluation and inspection of a portion of a lot, when that portion was unloaded first and unloading of the remaining portion was delayed beyond a day.

Agency Policy

FSIS' policy is to treat all producers and products equitably during inspection. Boneless manufacturing meat has been the only product for which proportionate sampling was performed. There is no justification for allowing this particular product a second chance to pass import inspection when all others must be accepted or refused entry strictly on the basis of the AIIS-determined sampling results.

The proportionate sampling provision has provided an unwarranted advantage to foreign producers and importers of boneless manufacturing meat that is not afforded producers and importers of other imported meat products. In essence, producers and importers of imported boneless manufacturing meat have had an advantage in the regulations which gave them a second chance to "pass for entry" part of a lot of refused entry product simply by redefining the lot. This is an anachronism that is inconsistent with FSIS' Automated Import Inspection System, which prescribes the sampling of *all* imported products in a uniform manner and on an equitable basis.

Comments on the Proposed Rule

FSIS did not receive any comments in response to the proposed rule. For the reasons stated above, FSIS is adopting the proposed rule as published.

List of Subjects in 9 CFR Part 327

Meat inspection, Imported products.

Final Rule

PART 327—[AMENDED]

Accordingly, 9 CFR Part 327 of the Federal meat inspection regulations is amended as set forth below:

The authority citation for Part 327 continues to read as follows:

Authority: 34 Stat. 1260, 79 Stat. 903, as amended, 81 Stat. 584, 84 Stat. 91, 438; 21 U.S.C. 71 *et seq.*

2. Paragraphs (c) and (d) are removed, and paragraph (b) and the section heading of § 327.21 are revised to read as follows, and the Table of Contents is revised accordingly.

§ 327.21 Inspection procedures for chilled fresh and frozen boneless manufacturing meat.

* * * * *

(b) *Lots refused entry.* Reinspection (including resampling) will be provided for any lot of frozen boneless manufacturing meat which was refused entry under this section on the basis of the original evaluation of the sample thereof, upon appeal from the inspector's initial decision.

Done at Washington, DC, on November 28, 1986.

Lester M. Crawford,

Acting Administrator, Food Safety and Inspection Service.

[FR Doc. 86-28057 Filed 12-12-86; 8:45 am]

BILLING CODE 3410-DM-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86-ANE-43; Amdt. 39-5487]

Airworthiness Directives; Rolladen-Schneider GmbH Model LS-6 Gliders

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Rolladen-Schneider GmbH LS-6 gliders, which requires the restriction of the maximum airspeed (IAS) to 200 km/h (108 kts) and the speed indicator to be marked with a red line at 200 km/h (108 kts). This action was prompted by the determination that the control stick can fail from vibration loads in the aileron control system. This condition, if not corrected, could result in the loss of the aileron control system.

DATES: Effective December 30, 1986.

Compliance Schedule: As required in body of AD.

ADDRESSES: Rolladen-Schneider Technical Bulletin No. 6009, dated July 7, 1986, applicable to this AD may be obtained from Rolladen Schneider Sailplane Division, 6073 Egelsbach Muhlstrasse 10, Federal Republic of Germany.

A copy of the technical note is contained in the Rules Docket 86-ANE-43, FAA, Office of the Regional Counsel, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Mr. Munro Dearing, Brussels Aircraft Certification Office, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, 15 Rue de la Loi B-1040 Brussels, Belgium, Telephone 513.38.30 Ext. 2710, or Alfred A. Maila, New York Aircraft Certification Office, 181 S. Franklin Avenue, Room 202, Valley Stream, New York 11581, Telephone 516-791-6220.

SUPPLEMENTARY INFORMATION: The FAA has determined that during flights of the Rolladen-Schneider Model GmbH LS-6 glider, at speeds between 250 and 270 km/h (135 and 145 kts), flutter occurred resulting in damage to the control stick. Damage of the control stick could cause failure of the aileron control system and possible loss of the glider. Rolladen-Schneider has issued Technical Bulletin No. 6009 which restricts the maximum airspeed (IAS) to 200 km/h (108 kts) and the airspeed indicator is to be marked with a red line at 200 km/h (108 kts). The Luftfahrt-Bundesamt (LBA), who has responsibility and authority to maintain the continuing airworthiness of these gliders in the Federal Republic of Germany, has issued an AD requiring compliance with the provisions of Technical Bulletin No. 6009 on gliders operated under the Federal Republic of Germany Registration. The FAA relies upon the certification of the LBA, combined with FAA review of pertinent documentation, in finding compliance of the design of these gliders with applicable United States airworthiness requirements, and the airworthiness and conformity of products of this design certificated for operation in the United States.

The FAA has examined the available information related to the issuance of Rolladen-Schneider Technical Bulletin No. 6009 and the issuance of AD No. 86-140 Rolladen-Schneider by the LBA. Based on the foregoing, the FAA has determined that the condition addressed by Rolladen-Schneider Technical Bulletin No. 6009 is an unsafe condition that may exist on other products of the same type design certificated for operation in the United States.

Therefore, an AD is being issued to require restriction of the maximum airspeed (IAS) to 200 km/h (108 kts) and the airspeed indicator is to be marked with a red line at 200 km/h (108 kts) on Rolladen-Schneider Model LS-6 gliders. Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and good cause exists for making this amendment effective in less than 30 days.

Conclusion

The FAA has determined that this regulation is an emergency regulation that is not major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluaton is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket under the caption **"FOR FURTHER INFORMATION CONTACT".**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) amends Part 39 of the Federal Aviation Regulations (FAR) as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding to § 39.13 the following new airworthiness directive (AD):

Rolladen-Schneider Flugzeugbau GmbH: Applies to Model LS-6, all serial numbers.

Compliance is required prior to further flight, after the effective date of the AD, unless already accomplished.

To prevent possible damage of the control stick, accomplish the following:

(a) Remove Bezel from airspeed indicator and mask out the red arc with tape that would not interfere with airspeed indicator needle and readability of the instrument.

(b) Replace Bezel to airspeed indicator and mark a red radial line on the face of the Bezel 0.05" wide, 0.30" long at 200 km/h (108 kts) establishing a new maximum airspeed limit.

(c) Install a placard on the instrument panel in clear view of the pilot which states: "Maximum Airspeed (IAS): 200 km/h (108 kts)."

(d) On existing placard mask out with tape the yellow arc limitations 108-146 kts, and the following red arc airspeed indicator markings:

Vne 6500 Ft—146 kts
Vne 6501-9800 Ft—139 kts
Vne 9801-19700 Ft—118 kts

(e) Flight manual pages 2.2, Limitations; page 2.3, Airspeed Indicator Markings; page 2.7, Placards, are obsolete.

(f) Attach a copy of this Airworthiness Directive to the Flight Manual.

Note.—Rolladen-Schneider Technical Bulletin No. 6009, dated July 7, 1986, applies to this AD.

Upon request, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, Aircraft Certification Office, AEU-100, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, Brussels, Belgium 09667-1011; telephone 513.38.30 Ext 2710, or the Manager, New York Aircraft Certification Office, Aircraft Certification Division, FAA, New England Region, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581, telephone (516) 791-6220.

Aircraft may be ferried in accordance with the provisions of Federal Aviation Regulations 21.197 and 21.199 to a base where the AD can be accomplished.

This amendment becomes effective December 30, 1986.

Issued in Burlington, Massachusetts, on December 4, 1986.

Laurence O. Higgins,

Acting Director, New England Region.

[FR Doc. 86-27977 Filed 12-12-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 86-NM-203-AD; Amdt. 39-5491]

Airworthiness Directives; McDonnell Douglas Model DC-9-80 Series Airplanes (Fuselage Numbers 1243 Through 1259, 1261 Through 1286, 1289 Through 1291, 1293 Through 1299, 1301 Through 1304, and 1306)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the **Federal Register** and makes effective as to all persons an amendment adopting a new airworthiness directive (AD) which was previously made effective as to all known U.S. owners and operators of McDonnell Douglas DC-9-80 series airplanes by individual telegrams. This AD requires a one-time visual inspection to verify that the elevator hydraulic boost cylinder attach rod end retaining nut and cotter pin were in place. This action was prompted by a report of a jammed elevator in a near full up position, resulting from the actual loss of a retaining nut, washer, and cotter pin. Jamming of an elevator at or near the full trailing edge up (TEU) position, if not corrected, could result in an uncontrollable flight condition.

DATE: Effective January 2, 1987.

This AD was effective earlier to all recipients of telegraphic AD T86-19-51, dated September 25, 1986. Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-L65 (54-60). This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Michael N. Asahara, Aerospace Engineer, Airframe Branch, ANM-122L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808; telephone (213) 548-2824.

SUPPLEMENTARY INFORMATION: On September 26, 1986, the FAA issued telegraphic airworthiness directive (AD) T86-19-51, applicable to certain McDonnell Douglas Model DC-9-80 series airplanes, fuselage numbers 1243 through 1286, 1289 through 1304, and 1306, requiring a one-time visual inspection of the left and right elevator hydraulic boost cylinder attach rod ends to verify the installation of a cotter pin on the rod retaining nut. This action was prompted by a report that, during a pre-delivery inspection of a Model DC-9-80 airplane, a left hydraulic boost cylinder attach rod end retaining nut was found to be missing. Investigation disclosed that the nut, P/N LH 7461T-080D, had backed off the rod end, P/N 4918153-1, allowing the rod end to swing down against the elevator structure, jamming the elevator at or near the full up position. This condition, if not corrected, could result in an uncontrollable flight condition. A one-time visual inspection of the right and left elevator boost cylinder rod end nut for missing cotter pin will minimize the potential of a jammed elevator.

Since issuance of the telegraphic AD, the FAA has determined that three fuselage numbers may be removed from the applicability statement. These serial numbers have been assigned to three airplanes scheduled to be manufactured in China. The applicability statement in the final rule has been revised to reflect this.

Since a situation existed, and still exists, that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are

impracticable, and good cause exists for making this amendment effective in less than 30 days.

The Federal Aviation Administration has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in the aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required).

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new airworthiness directive:

§ 39.13 [Amended]

McDonnell Douglas: Applies to McDonnell Douglas Model DC–9–80 series airplanes; fuselage numbers 1243 through 1259, 1261 through 1286, 1289 through 1291, 1293 through 1299, 1301 through 1304, and 1306; certificated in any category.

To prevent elevator jamming, which could result in the loss of adequate aircraft control, accomplish the following, unless previously accomplished:

A. Within 6 calendar days after the effective date of this AD:

1. Open access doors 3507 and 3608 to gain access to inspection area on the lower elevator surface, in accordance with DC–9–80 Maintenance Manual, Chapter 6–23–00.

2. Visually inspect the left and right elevator hydraulic boost cylinder attach rod ends and verify that the retaining nut and cotter pin are installed.

3. If the rod end washer, nut, and/or cotter pin are missing, install new PLI–8–13.5 washer, 83494–820 nut, and MS24665–302 cotter pin, as necessary, as follows:

Tighten nut to a torque of 250–270 inch-pounds. If slot in nut and cotter pin hole in rod end align, install cotter pin. If slot in nut and cotter pin hole in rod end do not align, tighten nut a minimum amount required to obtain alignment (60 degrees maximum) to next slot and install cotter pin. Ring on PLI washer must be free to rotate after cotter pin installation. Cotter pin hole direction is machined on end of rod end for use as an installation aid.

B. Alternate means of compliance which provides an acceptable level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

All persons affected by this directive who have not already received the appropriate service information from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director Publications and Training, C1–L65 (54–60). These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California.

This amendment becomes effective January 2, 1987 as to all persons, except those persons to whom it was made immediately effective by telegraphic AD T86–19–51, issued September 25, 1986.

Issued in Seattle, Washington, on December 8, 1986.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 86–27975 Filed 12–12–86; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 610

[Docket No. 82N–0134]

General Biological Products Standards; Sterility

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the biologics regulations to clarify and update certain requirements for sterility testing of biological products. This action ensures the reliability of the growth-promoting qualities of the sterility test media and provides greater consistency with the requirements of the current United States Pharmacopeia (U.S.P. XXI).

DATES: Effective February 13, 1987. The Director of the Office of the Federal Register approves the incorporation by reference of certain publications in 21 CFR 610.12 on February 13, 1987.

FOR FURTHER INFORMATION CONTACT: Joseph Wilczek, Center for Drugs and Biologics (HFN–362), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–295–8046.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of November 5, 1982 (47 FR 50303), FDA proposed to clarify, update, and improve the biologics regulations governing sterility testing and tests for growth-promoting qualities of culture media, and to make those regulations consistent with technology as reflected in the U.S.P. XX. Manufacturers perform sterility tests on both bulk and final container material of most biological products to reveal the presence of viable contaminating microorganisms, i.e., bacteria, molds, and/or yeasts. The reliability of a sterility test is dependent on the growth-promoting qualities of the sterility test culture medium. To ensure that the culture medium, Fluid Thioglycollate Medium or Soybean-Casein Digest Medium, has the necessary nutritive requirements, each biologic product manufacturer performs quality control tests on each lot of the sterilized culture medium.

The biologics regulations currently contain some basic requirements concerning the growth-promoting qualities of the sterility test culture media in § 610.12 (21 CFR 610.12) and some requirements concerning the microorganisms that are used in the growth-promoting quality tests in § 610.18 (21 CFR 610.18). Annual FDA inspections of licensed biological product manufacturers have revealed that these requirements have been misunderstood. Further, a comparison between the biologics regulations and the U.S.P. XX revealed that the compendial standards for growth-promoting quality tests are more stringent than the biologics regulations and that some sections of the biologics regulations should be updated. Since publication of the proposed rule, the U.S.P. has updated its compendial standards into a new edition, U.S.P. XXI. There is essentially no difference in the requirements for growth-promoting quality tests and sterility tests found in U.S.P. XX and those found in U.S.P. XXI.

Accordingly, to clarify, update, and improve the biologics regulations governing tests for growth-promoting qualities of culture media, and to make those regulations consistent with

technology as reflected in U.S.P. XX, FDA proposed to amend § 610.12 by:

1. Defining a lot of culture medium;

2. Specifying the storage conditions for the culture media;

3. Specifying two or more strains of microorganisms that are exacting in their nutritive and aerobic/anaerobic requirements for each of the two types of medium;

4. Specifying the requirements for documentation of such cultures of test organisms, including their storage, maintenance, purity, and periodic verifications of their viability; and

5. Specifying the criteria for a satisfactory growth-promoting quality test.

In the Federal Register of January 13, 1984 (49 FR 1683), the agency amended § 610.12(g)(4) to allow exemption of certain biological products from final product sterility requirements. The amendments permits the Director, Office of Biologics Research and Review, to exempt a product from the sterility requirements when scientific evidence supports such a change and the continued safety, purity, and potency of the product are not compromised.

In the Federal Register of April 18, 1984 (49 FR 15186), the agency amended the biologics regulations in 21 CFR Parts 610 through 680 to permit manufacturers to use alternative test methods or manufacturing processes, if the method or process is found by the Director, Office of Biologics Research and Review, to be equal or superior to the method or process described in the regulations. The agency removed § 610.12(g)(3) concerning general sterility alternative testing procedures and added new § 610.9 Equivalent methods and processes.

Interested persons were given until January 4, 1983, to submit written comments regarding the November 5, 1982, proposal. The agency received 11 letters of comments regarding this proposal. A summary of the comments and the agency's responses follows:

1. One general comment asked for clarification of a statement made in the preamble of the proposed rule for performing a control test simultaneously with a sterility test of the biological product. The comment asked if the control test referred to the growth-promoting test which appears earlier in the paragraph, or to the negative control for a sterility test cited later in the same paragraph.

The text of the preamble of the proposed rule concerning the control test was confusing and could have caused misinterpretation of the control test requirements. The control test mentioned in the preamble refers to the negative control test, whereby the sterility test would be considered invalid if the test medium of the negative control showed growth.

2. One comment on proposed § 610.12(a)(1)(i) requested that the time interval for visual examination of Fluid Thioglycollate Medium inoculated with bulk or final container material be extended from the proposed third through fifth day after inoculation to an indefinite time period determined by the manufacturer. The comment also requested that turbid medium be permitted to be transferred between the third and seventh day of incubation rather than between the third through fifth day of incubation, as proposed. The comment stated that compliance with the proposed regulation would be inconvenient and costly because of long weekends due to Federal holidays.

The agency disagrees with the comment. Sterility testing requirements with visual inspection of inoculated cultures and transfer of turbid media between the third and fifth day of incubation after inoculation have been accepted as a good manufacturing practice for many years. The agency notes that autolysis of bacterial cultures may occur if visual inspection of the inoculated cultures is delayed beyond the fifth day of incubation after inoculation. Accordingly, the agency does not adopt the comment because implementation of the suggestions would jeopardize accurate interpretation of sterility test results.

3. Two comments concerning proposed § 610.12(e)(2)(i) requested that the sterility test requirements for a lot of medium apply to a batch dehydrated culture medium. The comments suggested that testing each autoclave run of liquid culture medium from the same batch of dehydrated culture medium is unnecessary. One comment further stated that manufacturers of culture media routinely perform growth-promoting tests and certify their culture media before selling it to others, such as manufacturers of biological products. Manufacturers testing their biological products perform growth-promoting studies on each batch of dehydrated medium upon receipt. In addition, the comment stated that extensive validation of a manufacturer's autoclaves ensures that the culture medium is properly sterilized.

The agency agrees with the comments and is amending proposed § 610.12(e)(2)(i) by revising the test requirements for a lot of culture medium to apply a single batch of dehydrated culture medium, provided that the biological product manufacturer has a validation program for autoclaves used to sterilize the culture medium and has received approval for this practice from the Director, Office of Biologics Research and Review. In addition, the manufacturer must specify in its standard operating procedures the exact formulation of each culture medium to assure reproducibility. The formulation would include such items as the weight of the culture medium used, the volume of distilled water used, the length of boiling time used to dissolve the agar, and the proper cleaning of the glassware used for sterilization of the culture medium. The agency does not intend to codify the standard operating procedures requirements, but is adding the requirement for a validation program for autoclaves if a manufacturer elects not to perform growth-promoting tests on each lot of liquid medium derived from a single batch of culture medium.

4. Five comments on proposed § 610.12(e)(2)(i) objected to the requirement for using the same sized vessels containing equal volumes in a single autoclave run to comply with the definition of a lot of culture medium. The comments stated that this requirement would unnecessarily increase the number and cost of vessels to comply with the regulation with no additional assurance of media quality.

The agency agrees with the comments. The agency believes that manufacturers should be permitted to use different sized vessel containers in a single autoclave run when preparing culture medium, provided that a growth-promoting quality test required in § 610.12(e)(2) (ii) and (v) is performed on culture medium in the smallest sized vessel after the autoclave run is completed. The smallest sized vessel is the one most likely to be adversely affected during sterilization because the culture medium will heat up to maximum temperature more quickly than culture medium in larger sized vessels. Accordingly, the agency is amending § 610.12(e)(2)(i) to allow for various sized vessels in a single autoclave run, provided that a growth-promoting quality test is performed on culture medium in the smallest sized vessel to assure growth-promoting capability.

5. The agency received numerous comments on proposed § 610.12(e)(2)(ii) concerning the specific test organisms to be used for testing growth-promoting qualities of each lot of culture medium. Four comments suggested that *Bacillus subtilis* be used as one of the two test organisms for testing Soybean-Casein Digest Medium. Several comments stated that proposed § 610.12(e)(2)(ii) was unclear and confusing as to which

test organisms must be used with Fluid Thioglycollate and Soybean-Casein Digest media. One comment requested that *Bacillus cereus* be listed as an alternative to *Bacillus subtilis* or *Micrococcus luteus* in testing growth-promoting qualities. One comment suggested that § 610.12(e)(2)(ii) be revised into chart form similar to the U.S.P. growth-promotion requirements.

The agency agrees that *Bacillus subtilis* should be listed as an alternative organism for testing Soybean-Casein Digest Medium to be consistent with U.S.P. requirements. The agency believes that manufacturers should also be permitted to use *Micrococcus luteus* for testing Soybean-Casein Digest Medium as stated in the proposed rule and as provided for in the U.S.P. The agency does not believe that *Bacillus cereus* should be used as an alternative to *Bacillus subtilis* or *Micrococcus luteus* in testing growth-promoting qualities because the agency intends to keep its list similar to the U.S.P. requirements. The agency agrees that listing test organisms in chart form will help clarify testing requirements. Accordingly, the agency has revised § 610.12(e)(2)(ii) into chart form, listing the microorganisms acceptable for testing Fluid Thioglycollate Medium or Soybean-Casein Digest Medium. Although the list of microorganisms has been expanded, the agency believes that when Fluid Thioglycollate Medium is tested for growth-promoting qualities, manufacturers must choose both an aerobic and an anaerobic microorganism from the chart. Furthermore, when Soybean-Casein Digest Medium is tested for growth-promoting qualities, manufacturers must choose the yeast, *Candida albicans*, as one of the two test microorganisms. The agency is codifying this language in § 610.12(e)(2)(ii) for clarity. The agency will continue to require that manufacturers choose at least two test organisms listed in the chart for determining growth-promoting qualities of each of these culture media.

6. Two comments on proposed § 610.12(e)(2)(iv) concerning storage and condition of media objected to the required weekly testing of unsealed media. One comment suggested monthly rather than weekly testing of the unsealed liquid media. Another comment suggested that the proposed requirement to store Fluid Thioglycollate Medium in sealed vessels at 4°C is too restrictive and should be revised to allow storage at the manufacturer's specified temperature range or between 2 to 8°C. The comment stated that storage at 4°C would require extensive refrigerated storage space and is more restrictive than most media manufacturers' specified storage conditions for their products.

The agency agrees with the comments. The agency believes that monthly rather than weekly testing of unsealed liquid media will provide adequate assurance that the unsealed media are effective in growth-promotion of test organisms. The agency also agrees that storing Fluid Thioglycollate Medium, as proposed, in sealed vessels at 4°C is too burdensome for the reasons listed above. Accordingly, the agency is revising § 610.12(e)(2)(iv) to permit testing of unsealed media at monthly intervals and storage of the media at the manufacturer's specified temperature range.

7. The agency received three comments on proposed § 610.12(e)(2)(v)(*b*).

(a) One comment requested that a single test be required for inoculated Fluid Thioglycollate Medium used for sterility testing of a product containing mercury. The comment requested that the medium be incubated at 30 to 35°C, rather than requiring a second test at 20 to 25°C as proposed. One comment stated that neither *Clostridium sporogenes* nor *Bacteroides fragilis* will grow at temperatures below 25°C and that *Bacillus subtilis* and *Candida albicans* should serve as substitute test organisms for the growth-promoting test.

The agency disagrees with the first comment to eliminate a second growth-promoting quality test at 20 to 25°C in Fluid Thioglycollate Medium when testing products containing mercurial preservatives. Because § 610.12(e)(2)(ii) has been expanded in the final rule (see paragraph 5) to include *Micrococcus luteus*, *Candida albicans*, and *Bacillus subtilis* cultures which grow at 20 to 25°C, the agency believes that the testing requirement for Fluid Thioglycollate Medium at 20 to 25°C is reasonable and should not be deleted.

(b) Another comment asked whether uninoculated controls of Soybean-Casein Digest Medium must be incubated for 7 or 14 days. The comment also requested that the agency state the incubation conditions for inoculated Soybean-Casein Digest Medium.

The agency believes that uninoculated controls of Soybean Casein Digest Medium should be incubated for 7 days at 20 to 25°C and is amending § 610.12(e)(2)(v)(*b*) accordingly. The agency agrees with the comment that the incubation conditions for inoculated Soybean Casein Digest Medium should be stated and is amending § 610.12(e)(2)(v)(*b*) to specify that inoculated Soybean-Casein Digest Medium should be incubated at 20 to 25 °C for 7 days.

(c) The comment also stated that for a growth-promoting test performed simultaneously with a sterility test, the regulation should state that no growth within 7 days is invalidating because the incubation period for a sterility test is 14 days.

The agency disagrees with the comment that all sterility tests require 14-day incubation periods. For example, the sterility test using the membrane filtration technique referenced in § 610.12(f) of this final rule requires an incubation period of no less than 7 days. Accordingly, the agency rejects this comment.

8. One comment on § 610.12(e)(2)(vi) suggested deleting the last sentence of this section because the sentence appeared redundant. The last sentence requires that positive controls for media "shall be inoculated with dilutions of cultures of bacteria or fungi which are viable in the product being tested . . ."

The agency believes that this sentence indicates that bacteriostatic or fungistatic conditions due to the nature of the biological product being tested must be considered and resolved for a growth-promoting test to be accurate. Accordingly, the comment is rejected.

9. One comment on § 610.12(f) requested that the agency explain why Fluid Thioglycollate Medium must be used instead of Soybean-Casein Digest Medium when testing products containing a mercurial preservative using the membrane filtration test.

The agency believes that trace amounts of a mercurial preservative may not be completely removed after filtering a product followed by washing of the filter and could compromise the results of a sterility test. The agency is not aware of any supporting data that indicate that trace amounts of a mercurial preservative will not interfere in performing the sterility test when using Soybean-Casein Digest Medium. Accordingly, the agency requires that such sterility tests use Fluid Thioglycollate Medium to ensure reliable and accurate test results.

10. One comment noted that proposed § 610.12(g)(2) provides for the performance of sterility tests at alternate temperatures without performing growth-promoting quality tests at alternate incubation temperatures.

The agency acknowledges this oversight and has amended § 610.12(g)(2) to require growth-promoting quality tests at alternate incubation temperatures when sterility

tests are performed at alternate temperatures.

11. Although no specific comments were received regarding the maintenance of written records pertaining to these testing requirements, the agency believes it is useful to cross reference certain applicable sections of the current good manufacturing practice regulations in 21 CFR Part 211. Therefore, the agency is adding new § 610.12(h) to clarify that the records relating to the testing requirements of § 610.12 must be prepared and maintained as required by §§ 211.167 and 211.194.

In addition to the changes listed above, the agency is making several other minor clarifying changes in the regulations.

Environmental Impact

The agency has determined pursuant to 21 CFR 25.24(c)(10) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Economic Impact

FDA has reexamined the economic impact of the final rule in accordance with Executive Order 12291 and the Regulatory Flexibility Act. The agency concludes that about 75 biological product manufacturers will be affected by these requirements, of whom approximately half are small. Costs per firm could possibly vary from 0 to about $250 per year, depending on the firm's current practices. The anticipated costs are insufficient to warrant designation as a major rule under any of the criteria specified under section 1(b) of Executive Order 12291. Further, the agency certifies that the final rule will not have a significant impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act. A copy of the threshold assessment supporting this determination is on file with the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

Paperwork Reduction Act

Section 610.12(h) contains information collection requirements already submitted to and approved by the Office of Management and Budget (OMB) under section 3507 of the Paperwork Reduction Act of 1980. Section 610.12(h) merely cross references applicable sections (21 CFR 211.167 and 211.194) that have been previously approved under OMB control number 0910–0139.

List of Subjects in 21 CFR Part 610

Biologics; Incorporation by reference; Labeling.

Therefore, under the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act and under authority delegated to the Commissioner of Food and Drugs, Part 610 is amended as follows:

PART 610—GENERAL BIOLOGICAL PRODUCTS STANDARDS

1. The authority citation for Part 610 is revised to read as follows:

Authority: Secs. 502, 701, 52 Stat. 1050–1051 as amended, 1055–1056 as amended (21 U.S.C. 352, 371); secs. 215, 351, 58 Stat. 690 as amended, 702 as amended (42 U.S.C. 216, 262); 21 CFR 5.10.

2. In § 610.12 by revising paragraphs (a)(1)(i), (e)(2), (f), (g)(2) and (8), and by adding new paragraph (h) to read as follows:

§ 610.12 Sterility.

* * * * *

(a) * * *

(1) *Using Fluid Thioglycollate Medium*—(i) *Bulk and final container material.* The volume of product, as required by paragraph (d) of this section (hereinafter referred to also as the "inoculum"), from samples of both bulk and final container material, shall be inoculated into test vessels of Fluid Thioglycollate Medium. The inoculum and medium shall be mixed thoroughly and incubated at a temperature of 30 to 35 °C for a test period of no less than 14 days and examined visually for evidence of growth on the third, fourth, or fifth day, and on the seventh or eighth day, and on the last day of the test period. Results of each examination shall be recorded. If the inoculum renders the medium turbid so that the absence of growth cannot be determined reliably by visual examination, portions of this turbid medium in amounts of no less than 1.0 milliliter shall be transferred on the third, fourth, or fifth day of incubation, from each of the test vessels and inoculated into additional vessels of the medium. The material in the additional vessels shall be incubated at a temperature of 30 to 35 °C for no less than 14 days. Notwithstanding such transfer of material, examination of the original vessels shall be continued as prescribed above. The additional test vessels shall be examined visually for evidence of growth on the third, fourth, or fifth day of incubation, and on the seventh or eighth day, and on the last day of the incubation period. If growth appears, repeat tests may be performed as prescribed in paragraph (b) of this section and interpreted as specified in paragraph (c) of this section.

* * * * *

(e) * * *

(2) *Culture media requirements*—(i) *Definition of a lot of culture medium and test requirements.* A lot of culture medium is that quantity of uniform material identified as having been thoroughly mixed in a single vessel, dispensed into a group of vessels of the same composition and design, sterilized in a single autoclave run, and identified in a manner to distinguish one lot from another. Each lot of culture medium shall be tested for its growth-promoting qualities unless it meets the exception for dehydrated culture medium described in this subpart. The growth-promoting quality test shall be performed on the smallest sized vessel used in an autoclave run. When using a single batch of dehydrated culture medium, a manufacturer need not perform growth-promoting tests on each lot of prepared liquid medium, provided that a validation program exists for autoclaves used to sterilize the culture medium, and the manufacturer has received approval for this practice from the Director, Office of Biologics Research and Review.

(ii) *Test organisms, strains, characteristics, identity, and verification.* Two or more strains of microorganisms that are exacting in their nutritive and aerobic/anaerobic requirements shall be used to test the growth-promoting qualities of each lot of test medium. When using Fluid Thioglycollate medium, both an aerobic and an anaerobic test microorganism shall be chosen. When using Soybean Casein Digest Medium, the yeast, *Candida albicans*, shall be one of the two test microorganisms chosen. Manufacturers shall choose the strains of microorganisms from the chart in this paragraph.

Medium	Test microorganisms	Incubation temperature
Fluid Thioglycollate	*Spore-formers*	
	1. *Bacillus subtilis* (ATCC No. 6633)	30 to 35 °C.
	2. *Clostridium sporogenes* (ATCC No. 11437)	Do.
	Non-spore-formers	
	3. *Candida albicans* (ATCC No. 10231)	Do.
	4. *Micrococcus luteus* (ATCC No. 9341)	Do.
	5. *Bacteroides vulgatus* (ATCC No. 8482)	Do.

Medium	Test microorganisms	Incubation temperature
Soybean-Casein Digest	*Spore-formers*	
	1. *Bacillus subtilis* (ATCC No. 6633)	20 to 25 °C.
	Non-spore-formers	
	2. *Candida albicans* (ATCC No. 10231)	Do.
	3. *Micrococcus luteus* (ATCC No. 9341)	Do.

ATCC strains of microorganisms described in this section are available from the American Type Culture Collection, 12301 Parklawn Dr., Rockville, MD 20852. Periodic tests shall be performed to verify the integrity of the test organisms in accordance with § 610.18 (a) and (b). The results of these periodic tests shall be recorded and retained in accordance with § 600.12(b) of this chapter.

(iii) *Storage and maintenance of cultures of test organisms.* Cultures of the test organisms used to determine the growth-promoting qualities of the medium shall be stored in a manner that will prevent cross contamination or loss of identity, at a temperature and by a method that will retain the initial characteristics of the organisms and ensure freedom from contamination and deterioration. If the test organisms are stored in the freeze-dried state, or frozen, they shall be reconstituted or thawed, whichever is applicable, and plated periodically to verify the colony count of the suspension. If the test suspensions are stored in a state other than freeze-dried or frozen, they shall be plated, and a colony count shall be performed at the time of each growth-promoting quality test to assure that not more than 100 organisms are used per test vessel. The results of tests for verification of the colony count shall be recorded and retained in accordance with § 600.12(b) of this chapter.

(iv) *Storage and condition of media.* A medium shall not be used if the extent of evaporation affects its fluidity, nor shall it be reused in a sterility test of the product. Fluid Thioglycollate Medium shall be stored in the dark at room temperature if the vessels are unsealed. Sealed vessels shall be stored at the manufacturer's specified storage temperature.

Fluid Thioglycollate Medium shall not be used if more than the upper one-third of the medium has acquired a pink color. The medium may be restored once by heating on a steam bath or in free-flowing steam until the pink color disappears. The design of the test vessel for Fluid Thioglycollate Medium shall provide favorable aerobic and anaerobic conditions for growth of the microorganisms throughout the test period. Soybean-Casein Digest Medium shall be stored in the dark at 20 to 25 °C. Unsealed vessels of either medium may be stored for more than 10 days at the proper temperature, provided they are tested monthly for growth-promotion and found to be satisfactory. Sealed vessels of either medium may be stored at the proper temperature for a period of time not to exceed 1 year, provided they are tested for growth-promotion every 3 months and found to be satisfactory. The results of such testing shall be recorded and retained in accordance with § 600.12(b) of this chapter.

(v) *Criteria for a satisfactory growth-promoting quality test.* (*a*) One hundred or fewer organisms of each strain tested shall be used. The test is satisfactory if evidence of growth appears within 7 days in all vessels inoculated. If a lot of medium fails to support the growth of any test organism, or if the test results show that more than 100 organisms of a strain were used or are necessary to promote growth in the lot of medium being tested, or if the growth is not a pure culture of the test organism, a second test may be performed. If it fails the second test, the lot of medium shall be rejected.

(*b*) Inoculated Fluid Thioglycollate Medium shall be incubated at 30 to 35 °C for 7 days. If the test medium is to be used in determining the sterility of a product containing a mercurial preservative, a second test shall be performed in accordance with paragraph (e)(2)(v)(*a*) of this section, except that the test shall be incubated at 20 to 25 °C for 7 days. Inoculated Soybean-Casein Digest Medium shall be incubated at 20 to 25 °C for 7 days. The sterility of each lot of medium shall be confirmed by the incubation of uninoculated control test vessels for 7 days at the temperature(s) for that particular medium. The lot of medium is satisfactory if no growth is observed in the control test vessels within the incubation period. The tests for growth-promoting qualities of culture media may be performed simultaneously with sterility testing of biological products, provided the sterility test is considered invalid if the test medium shows no growth response.

(vi) *Volume of culture medium.* The volume of each culture medium shall be determined for each bulk and final container sterility test required for each product. The ratio of the volume of inoculum to the volume of culture medium shall result in a dilution of the product that is not bacteriostatic or fungistatic, except for products to be tested by membrane filtration. The volume of inhibitors or neutralizers of preservatives added should be considered in determining the proper ratio of inoculum/medium. Vessels of the product-medium mixture(s) and control vessels of the medium shall be inoculated with dilutions of cultures of bacteria or fungi which are viable in the product being tested, and incubated at the appropriate temperature for no less than 7 days.

(f) *Membrane filtration.* Bulk and final container material or products containing oil products in water-insoluble ointments may be tested for sterility using the membrane filtration procedure set forth in the United States Pharmacopeia (21st Revision, 1985), section entitled "Test Procedures Using Membrane Filtration," p. 1159, which is incorporated by reference (copies are available from the United States Pharmacopeial Convention Inc., 12601 Twinbrook Parkway, Rockville, MD 20852, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408), except that (1) the test samples shall conform with paragraph (d) of this section; and (2) in addition, for products containing a mercurial preservative, the product shall be tested in a second test using Fluid Thioglycollate Medium incubated at 20 to 25 °C in lieu of the test in Soybean-Casein Digest Medium.

(g) * * *

(2) *Alternate incubation temperatures.* Two tests may be performed as prescribed in paragraph (a)(1)(i) of this section, one test using an incubation temperature of 18 to 22 °C, the other test using an incubation temperature of 30 to 37 °C, in lieu of performing one test using an incubation temperature of 30 to 35 °C, provided that growth-promoting quality tests have been performed at these temperatures.

* * * * *

(8) *Diagnostic biological products not intended for injection.* For diagnostic biological products not intended for injection, (i) only the Fluid Thioglycollate Medium test incubated at 30 to 35 °C is required, (ii) the volume of material for the bulk test shall be no less than 2.0 milliliters, and (iii) the sample for the final container test shall be no less than three final containers if the total number filled is 100 or less, and, if greater, one additional container for each additional 50 containers or fraction

thereof, but the sample need be no more than 10 containers.

* * * * *

(h) *Records.* The records related to the testing requirements of this section shall be prepared and maintained as required by §§ 211.167 and 211.194 of this chapter.

(Information collection requirements approved by the Office of Management and Budget under OMB control number 0910–0139)

Dated: November 26, 1986.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 86–27979 Filed 12–12–86; 8:45 am]

BILLING CODE 4160-01-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2676

Valuation of Plan Assets and Plan Benefits Following Mass Withdrawal; Interest Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This is an amendment to the Pension Benefit Guaranty Corporation's regulation on Valuation of Plan Assets and Plan Benefits Following Mass Withdrawal, which was published on March 25, 1986 (at 51 FR 10322). The regulation prescribes rules for valuing benefits and certain assets of multiemployer plans under sections 4219(c)(1)(D) and 4281(b) of the Employee Retirement Income Security Act of 1974. Section 2676.15(c) of the regulation contains a table setting forth, for each calendar month, a series of interest rates to be used in any valuation performed as of a valuation date within that calendar month. On or about the fifteenth of each month, the PBGC publishes a new entry in the table for the following month, whether or not the rates are changing. This amendment adds to the table the rate series for the month of January 1987.

EFFECTIVE DATE: January 1, 1987.

FOR FURTHER INFORMATION CONTACT: Deborah C. Murphy, Attorney, Corporate Policy and Regulations Department (35100), Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, DC 20006; 202–778–8850 (202–778–8859 for TTY and TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The PBGC finds that notice of and public comment on this amendment would be impracticable and contrary to the public interest, and that there is good cause for making this amendment effective immediately. These findings are based on the need to have the interest rates in this amendment reflect market conditions that are as nearly current as possible and the need to issue the interest rates promptly so that they are available to the public before the beginning of the period to which they apply. (*See* 5 U.S.C. 533 (b) and (d).) Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply (5 U.S.C. 601(2)).

The PBGC has also determined that this amendment is not a "major rule" within the meaning of Executive Order 12291 because it will not have an annual effect on the economy of $100 million or more; or create a major increase in costs or prices for consumers, individual industries, or geographic regions; or have significant adverse effects on competition, employment, investment, or innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 29 CFR Part 2676

Employee benefit plans, Pensions.

In consideration of the foregoing, Part 2676 of Subchapter H of Chapter XXVI of Title 29, Code of Federal Regulations, is amended as follows:

PART 2676—VALUATION OF PLAN BENEFITS AND PLAN ASSETS FOLLOWING MASS WITHDRAWAL

1. The authority citation for Part 2676 continues to read as follows:

Authority: Secs. 4002(b)(3), 4219(c)(1)(D), and 4281(b), Pub. L. 93–406, as amended by sections 403(1) and 104(2) (respectively), Pub. L. 96–364, 94 Stat. 1302, 1237–1238, and 1261 (1980) (29 U.S.C. 1302(b)(3), 1399(c)(1)(D), and 1441(b)(1)).

2. In § 2676.15, paragraph (c) is amended by adding to the end of the table of interest rates therein the following new entry:

§ 2676.15 Interest.

* * * * *

(c) *Interest rates.*

For valuation dates occurring in the month—	The values of i_t are—															
	i_1—	i_2—	i_3—	i_4—	i_5—	i_6—	i_7—	i_8—	i_9—	i_{10}—	i_{11}—	i_{12}—	i_{13}—	i_{14}—	i_{15}—	i_t
January 1987	.08875	.08625	.08375	.08	.07625	.07125	.07125	.07125	.07125	.07125	.065	.065	.065	.065	.065	.05875

Issued at Washington, DC, on this 9th day of December 1986.

Kathleen P. Utgoff,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 86–28072 Filed 12–12–86; 8:45 am]

BILLING CODE 7708-01-M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 724

Revision of Definition of Entry Level Separation

AGENCY: Department of the Navy, DoD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is revising the definition of Entry Level Separation contained in paragraph 1.9d of Chapter 1 of the Manual For Discharge Review 1984 (32 CFR 724.109(a)(4)) to conform to regulations established by Department of Defense Directive 1332.14, 32 CFR Part 41 (Enlisted Administrative Separations) and Secretary of the Navy Instruction 1910.4A (Enlisted Administrative Separations).

EFFECTIVE DATE: November 14, 1986.

FOR FURTHER INFORMATION CONTACT: Captain L.E. Hilder, U.S. Navy, (202) 696–4881.

SUPPLEMENTARY INFORMATION: This regulation is not subject to the rule making requirements of 5 U.S.C. 553 (1982) because it involves a military function of the United States [5 U.S.C. 553(a)(1)]. The Department of the Navy has determined that this regulation does not come within the purview of 32 CFR 701.57 (1985) and that inviting public comment concerning this document is not warranted. With respect to E.O. 12291: This document is not a "regulation" or "rule" because it involves a military function of the United States; consequently, a "Regulatory Impact Analysis" is not required. A "Regulatory Flexibility

Analysis" is not required under 5 U.S.C. 603 and 604.

The definition of Entry Level Separation currently contained in paragraph 1.9d of Chapter 1 of the Manual for Discharge Review (32 CFR 724.109(a)(4)) is incomplete, as it does not contain specific details established by governing Department of Defense Directive 1332.14 (32 CFR Part 4) and Secretary of the Navy Instruction 1910.4A. The definition of Entry Level Separation is revised in conformity with this Directive and Instruction.

List of Subjects in 32 CFR Part 724

Administrative practice and procedure, Military personnel.

For the reasons set out in the preamble, 32 CFR Part 724 is amended as follows:

PART 724—NAVAL DISCHARGE REVIEW BOARD

1. The authority citation for Part 724 continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. 1553.

2. 32 CFR Part 724.109(a)(4) is revised as follows:

§ 724.109 Types of administrative discharges.

(a) * * *

(4) *Entry Level Separation.* (i) A separation initiated while a member is in entry level status will be described as an Entry Level Separation except in the following circumstances:

(*a*) When characterization under Other Than Honorable Conditions is authorized and is warranted by the circumstances of the case; or

(*b*) When characterization of service as Honorable is clearly warranted by the presence of unusual circumstances including personal conduct and performance of naval duty and is approved on a case-by-case basis by the Secretary of the Navy. This characterization will be considered when the member is separated by reason of Selected Changes in Service Obligation, Convenience of the Government, or Disability.

(ii) With respect to administrative matters outside the administrative separation system that require a characterization of service as Honorable or General, an Entry Level Separation shall be treated as the required characterization. In accordance with 1163 of title 10, *United States Code* (1982), an Entry Level Separation for a member of a Reserve component separated from the Delayed Entry Program is under honorable conditions.

Dated: December 5, 1986.

Harold L. Stoller, Jr.,

CDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 86-28007 Filed 12-12-86; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD3 86-71]

Drawbridge Operation Regulations; Rancocas River, NJ

AGENCY: Coast Guard, DOT.

ACTION: Final rule; revocation.

SUMMARY: This amendment revokes the regulations for the U.S. 130 drawbridge, mile 3.3, because the moveable bridge has been removed and replaced with a fixed bridge. Regulations for the other bridges on the Rancocas River remain unchanged. Notice and public procedure have been omitted from this action due to the removal of the bridge concerned.

EFFECTIVE DATE: These regulations become effective December 15, 1986.

FOR FURTHER INFORMATION CONTACT: William C. Heming, Bridge Administrator, Third Coast Guard District, Bldg. 135A, Governors Island, New York 10004 (212) 668-7994.

SUPPLEMENTARY INFORMATION: This action has no economic consequences. It merely revokes regulations for a moveable bridge that no longer exists. Consequently, this action is considered to be non-major under Executive Order 12291 on Federal Regulation, and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). Since there is no economic impact, a full regulatory evaluation is unnecessary. Because no notice of proposed rule making is required under 5 U.S.C. 553, this action is exempt from the Regulatory Flexibility Act (5 U.S.C. 605(b)). However, this action will not have significant economic impact on a substantial number of small entities.

Drafting information: The drafters of these regulations are Jose M. Arca Jr., project officer, and Mary Ann Arisman, project attorney.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations is amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-1(g).

2. Section 117.745 is revised to read as follows:

§ 117.745 Rancocas River (Creek).

The draws of the S543 bridge, mile 1.3 at Riverside, the Conrail bridge, mile 1.6 at Delanco and the S38 bridge, mile 7.8 at Centerton, shall open on signal from April 1 through November 30 from 7 a.m. to 11 p.m. From December 1 through March 31 from 7 a.m. to 11 p.m., the draws shall open on signal if at least 24 hours notice is given. From 11 p.m. to 7 a.m., the draws need not open for the passage of vessels.

Dated: December 10, 1986.

G.D. Passmore,

Rear Admiral (Lower Half), U.S. Coast Guard Commander, Third Coast Guard District.

[FR Doc. 86-28049 Filed 12-12-86; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL-3115-5]

Approval and Promulgation of Implementation Plans; Wisconsin

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Final rule.

SUMMARY: The USEPA announces final approval of a revision to the Wisconsin State Implementation Plan (SIP). The revision pertains to specified levels for air pollution episodes, air pollution episode reporting requirements, and the requirements for implementing air pollution emission control plans. The State of Wisconsin is revising the air pollution episode levels specified in the existing rules to reflect Federal air pollution episode level requirements. USEPA is approving the revision because it is consistent with the Federal episode reporting and emission control plan implementation regulations specified in 40 CFR Parts 51.16 and 58.40. USEPA's action is based upon a revision which was submitted by the State on December 19, 1985.

EFFECTIVE DATE: This action will be effective on February 13, 1987, unless notice is received within 30 days that

someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of the SIP revision, technical support document, and other materials related to this rulemaking are available for inspection at the following addresses: (It is recommended that you telephone Colleen W. Comerford, at (312) 886-6034, before visiting the Region V Office.)

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch (5AR-26), 230 South Dearborn Street, Chicago, Illinois 60604

Written comments should be sent to:

Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR-26), Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604

Copies of today's revision to the Wisconsin SIP are available for inspection at:

U.S. Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, DC 20460,

The Office of the Federal Register, 1100 L Street, NW., Room 8301, Washington, DC

Wisconsin Department of Natural Resources, Bureau of Air Management, 101 South Webster, Madison, Wisconsin 53707

FOR FURTHER INFORMATION CONTACT: Colleen W. Comerford, (312) 886-6034.

SUPPLEMENTARY INFORMATION:

Background

On December 19, 1985, the Wisconsin Department of Natural Resources (WDNR) submitted a SIP revision request to USEPA. The revision pertains to air pollution episode levels, reporting requirements, and emission control plans, and is contained in Section NR 493 of the Wisconsin Administrative Code. A public hearing on the revision, identified as Natural Resources Board Order A-44-84, was held in Madison, Wisconsin, on October 12, 1984. The rule revision was published in the Wisconsin Administrative Register in July, 1985, and took effect in Wisconsin on August 1, 1985.

The rule not only revises air pollution episode levels but also incorporates the revision into the NR 400 series of the Wisconsin Administrative Code. Although the changes were taken to hearing as a revision to Section NR 154.20 of the Wisconsin Administrative Code, they were subsequently moved to new Chapter NR 493 as part of the ongoing effort to reorganize the Wisconsin air program rules.

Chapter NR 493

Chapter NR 493 consists of three sections: NR 493.01, Episode levels; NR 493.02, General program; and NR 493.03, Episode orders. NR 493.01 specifies the level of concentration of an air contaminant, or combination of air contaminants, that would trigger the issuance of an "Air Pollution Episode Advisory" or an "Air Pollution Episode Level" by the WDNR. The WDNR will issue an air pollution episode advisory to the public if the levels of pollution concentration specified in NR 493.01 are reached. The WDNR will notify the public that an air pollution episode level has been reached, if a level of pollution concentration is expected to last for 12 or more hours (or to recur the following day in the case of ozone) unless control actions are taken. An air pollution episode level notification can be issued at the "alert", "warning", or "emergency" stage, depending on the specified pollutant concentration. The purpose of advisories and other notifications by the WDNR is to warn the public of potential health hazards related to high levels of air pollution.

Section NR 493.02 of the Wisconsin Administrative Code specifies that sources that emit more than 0.25 tons per day of a regulated pollutant must have emission control action programs. These programs are meant to reduce or eliminate emissions of specified air pollutants during episodes of hazardous air pollution. Section NR 493.03 describes the requirements for emission control action programs by source, pollutant, and episode level.

Conclusion

USEPA has reviewed this SIP revision request and has determined that it is approvable because it meets the Federal episode reporting requirements specified in 40 CFR Parts 51.16 and 58.40. All SIPs have a legal requirement for the provision of air pollution episode reporting and the implementation of emission control plans during air pollution episodes. The purpose of this requirement is to minimize public health damage and to prevent further pollutant buildup during periods of high pollutant concentrations.

Because USEPA considers today's action noncontroversial and routine, we are approving it without prior proposal. The action will become effective on February 13, 1987. However, if we receive notice by January 14, 1987, that someone wishes to submit critical comments, *then* USEPA will publish: (1) A notice that withdraws the action, and (2) a notice that begins a new rulemaking by proposing the action and establishing a public comment period.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under 5 U.S.C. section 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 13, 1987. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2))

List of Subjects in 40 CFR Part 52

Air pollution control, Incorporation by reference, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Note.—Incorporation by reference of the State Implementation Plan for the State of Wisconsin was approved by the Director of the Federal Register on July 1, 1982.

Dated: September 29, 1986.

Lee M. Thomas,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40 of the Code of Federal Regulations, Chapter I, Part 52, is amended as follows:

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7642.

2. Section 52.2570 is amended by adding new paragraph (c)(47) as follows:

§ 52.2570 Identification of Plan.

* * * * *

(c) * * *

(47) Submittal from the State of Wisconsin, dated December 19, 1985, revising the specified levels for air pollution episodes, air pollution episode reporting requirements, and the requirements for implementing air pollution control plans.

(i) *Incorporation by reference.* (A) Department of Natural Resources, Chapter NR 493, Air Pollution Episode Levels and Episode Emissions Control Action Programs, NR 493.01, 493.02 and 493.03, effective on August 1, 1985.

[FR Doc. 86-26283 Filed 12-12-86; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 455

[OW-FRL-3128-1]

Pesticide Chemicals Category Effluent Limitations Guidelines, Pretreatment Standards and New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; withdrawal.

SUMMARY: On October 4, 1985 the EPA promulgated a final regulation establishing best available technology economically achievable, new source performance standards, pretreatment standards for existing sources and pretreatment standards for new sources for the pesticide industry under the Clean Water Act. On July 25, 1986, the final regulation was remanded to the EPA by the Eleventh Circuit Court of Appeals. EPA is today removing the regulation from the Code of Federal Regulations, at the direction of the Court, so as to inform the public that the regulation is no longer effective. The Agency intends to reconsider this regulation and to establish new effluent limitation guidelines and standards for the pesticide industry in a future rulemaking.

EFFECTIVE DATE: The remand of these portions of the pesticide regulation is effective as of July 25, 1986, the date of the Court's order.

FOR FURTHER INFORMATION CONTACT: Thomas Fielding, 202–382–7156.

SUPPLEMENTARY INFORMATION: On October 4, 1985, EPA issued a final rule entitled "Pesticide Chemicals Category; Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards; Final Regulations," published at 50 FR 40672. That rule limited the discharge of pollutants into navigable waters of the United States and into publicly owned treatment works by existing and new facilities that manufacture and/or formulate pesticides. Specifically, the Agency established best available technology economically achievable (BAT) effluent limitations guidelines, new source performance standards (NSPS), and pretreatment standards for existing and new sources (PSES, PSNS) in the pesticide regulation.

Several parties filed petitions in the Court of Appeals challenging various aspects of the pesticide regulation. *Chemical Specialties Manufacturers Association, et al.*, v. *EPA* (86–8024). The petitioners then submitted issue lists delineating the precise nature of each of their challenges to the rule. After evaluating these issue lists and doing an independent review, the Agency found significant errors in the effluent limitations guidelines and standards for the pesticide industry and determined to seek a remand of this rulemaking.

The Agency and the parties filed a joint motion for a voluntary remand of the regulation in the Eleventh Circuit Court of Appeals. On July 25, 1986, in response to the Joint Motion, the Court dismissed the case. On August 29, 1986, upon consideration of the parties' motion to modify the dismissal, the Court modified its order to clarify the terms of the dismissal. The Eleventh Circuit Court of Appeals ordered (1) that the effluent limitation guidelines and standards for the pesticide chemicals industry be remanded to EPA for reconsideration and further rulemaking and (2) that EPA publish a **Federal Register** notice removing the remanded pesticide regulation from the Code of Federal Regulations.

Today's regulation removes the BAT limitations, NSPS, PSNS and PSES for the pesticide category from the Code of Federal Regulations. These effluent limitation guidelines and standards have not been effective as of July 25, 1986, the date the Court remanded these regulations. Today's action merely formally removes the remanded regulation from the Code of Federal Regulations. The Agency intends to reconsider these limits and standards, and to establish effluent limitation guidelines and standards for the pesticide industry in a future rulemaking.

Today's action does not in any way affect the best practicable control technology currently available (BPT) limitations which were published on April 25, 1978 and September 29, 1978. These limitations are still effective.

List of Subjects in 40 CFR Part 455

Pesticides and pesticides chemicals, Waste treatment and disposal, Water pollution control.

Dated: December 5, 1986.

Lee M. Thomas,

Administrator.

PART 455—PESTICIDE CHEMICALS

1. The authority citation for Part 455 continues to read as follows:

Authority: Sections 301, 304, 306, 307 and 501, Pub. L. 92–500, 86 Stat. 816, Pub. L. 95–217, 91 Stat. 156 (33 U.S.C. 1311, 1314, 1316, 1317 and 1361).

2. Part 455 is amended by removing the following sections, tables, and appendices from the Code of Federal Regulations: 40 CFR 455.10(f)–(g); 455.11; 455.20(d); 455.23; 455.24; 455.25; 455.26; 455.27; 455.33; 455.34; 455.35; 455.36; 455.37; 455.41; 455.43; 455.44; 455.45; 455.46; 455.47; 455.50; 455.51; Table I, Table II, Appendices A–E.

3. Section 455.40 is revised to read as follows:

§ 455.40 Applicability; description of the pesticide chemicals formulating and packaging subcategory.

The provisions of this subpart are applicable to discharges resulting from all pesticide formulating and packaging operations.

[FR Doc. 86–28030 Filed 12–12–86; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 81

Purchase of Federal Crime Insurance and Adjustment of Claims; State Listings

AGENCY: The Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This final rule amends the list of states whose residents are eligible to purchase Federal Crime Insurance Program policies against burglary and robbery losses, and, as of January 31, 1987, removes from the list the States of Arkansas, Colorado, Iowa, Louisiana, North Carolina and Virginia.

EFFECTIVE DATE: January 31, 1987.

FOR FURTHER INFORMATION CONTACT: Robert J. DeHenzel, Chief, Urban Property Insurance Operations Division, Office of Insurance Operations, Federal Insurance Administration, 500 C Street, SW., Room 433, Washington, DC 20472, telephone number (202) 646–3440.

SUPPLEMENTARY INFORMATION: A proposed rule published in the **Federal Register** (Vol. 51, No. 143) on July 25, 1986, 51 FR 26726, and amended by notice in the **Federal Register** on August 5, 1986, 51 FR 28119, invited comments for a period of 60 days, ending October 6, 1986. The proposed rule amended the list of States whose residents are eligible to purchase Federal Crime Insurance Policies against burglary and robbery losses under the Federal Crime Insurance Program (FCIP) and proposed to remove from the list the States of Arkansas, Colorado, Iowa, Louisiana, Maryland, Massachusetts, Missouri, North Carolina, Ohio, Pennsylvania and Virginia, effective January 1, 1987. All of these States (with the exception of Colorado) applied for one-time Federal

payments which were paid under the authority of Pub. L. 99–160 (signed November 25, 1985) upon their certification that they would develop, on an expeditious basis, an alternative mechanism for providing access to crime insurance to all current FCIP policyholders in their States who apply.

Written comments were received during the comment period from the State Insurance Departments for the States of Maryland and Pennsylvania. The letters from the Insurance Commissioner for the State of Maryland confirmed the expeditious actions he has been taking, but noted a need for additional authority from the State Legislature, which will not be able to complete its deliberations until June, 1987. The letters from the Insurance Commissioner for the State of Pennsylvania, which has the third largest number of FCIP policies, indicate a need for further consultation with that State. The Insurance Departments for the States of Massachusetts, Missouri and Ohio, all with substantial numbers of FCIP policies, submitted letters after the comment period indicating a need for additional time to complete expeditious action.

This action is being taken under the authority of 12 USC 1749bbb–10a, on the basis of the Administator's continuing review of the crime insurance availability situation in the various States. Before final action was taken, all comments were considered. In the light of the comments received from the States of Maryland, Massachusetts, Missouri, Ohio and Pennsylvania, the Administrator has concluded that expeditious actions on the part of these States will require further time and, in furtherance of the best interests of the public and the Program, he therefore intends to remove those States from the list of eligible States as of July 1, 1987, and will defer final rule making with respect to these States until closer to that date. An environmental assessment has been prepared and it has been determined that there is no significant impact on the environment caused by the implementation of the rule and no environmental impact statement has been prepared.

It also has been determined that because of the very small number of policies in affected States, this rule will not have a significant impact upon a substantial number of small entities. Furthermore, there are no information collection requirements involved which require review under section 3504(b) of the Paperwork Reduction Act of 1978.

List of Subjects in 44 CFR Part 81

Claims, Crime insurance.

PART 81—[AMENDED]

1. The authority citation for Part 81 continues to read as follows:

Authority: 12 U.S.C. 1749bbb *et seq.*; Reorganization Plan No. 3 of 1978; E.O. 12127.

2. Section 81.1(b) is revised to read as follows:

§ 81.1 [Amended]

* * * * *

(b) On the basis of the information available, the Federal Insurance Administrator has determined that the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands and the States set forth in this paragraph have an unresolved critical crime insurance market availability problem which requires the operation of the Federal Crime Insurance Program therein, as of January 31, 1987. Accordingly, the Program is in operation in the following jurisdictions, as of January 31, 1987:

Alabama	Massachusetts
California	Missouri
Connecticut	New Jersey
Delaware	New York
Florida	Pennsylvania
Georgia	Rhode Island
Illinois	Tennessee
Kansas	District of Columbia
Ohio	Puerto Rico
Maryland	Virgin Islands

* * * * *

Dated: December 8, 1986.

Harold T. Duryee,

Federal Insurance Administrator, Federal Insurance Administration.

[FR Doc. 86–27843 Filed 12–12–86; 8:45 am]

BILLING CODE 6718–01–M

Proposed Rules

Federal Register
Vol. 51, No. 240
Monday, December 15, 1986

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 1006, 1007, 1011, 1012, 1013, 1046, 1093, 1094, 1096, 1098, and 1099

[Docket Nos. AO-366-A27 et al.]

Milk in the Georgia and Certain Other Marketing Areas; Decision on Amendments to Tentative Marketing Agreements and to Orders

7 CFR Parts	Marketing area	Docket Nos.
1007	Georgia	AO-366-A27
1006	Upper Florida	AO-356-A25
1011	Tennessee Valley	AO-251-A30
1012	Tampa Bay	AO-347-A28
1013	Southeastern Florida	AO-286-A35
1046	Louisville-Lexington-Evansville.	AO-123-A58
1093	Alabama-West Florida	AO-386-A6
1094	New Orleans-Mississippi	AO-103-A48
1096	Greater Louisiana	AO-257-A35
1098	Nashville,Tennessee	AO-184-A50
1099	Paducah, Kentucky	AO-183-A42

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This action adopts amendments to plant location adjustments to prices under 11 southeastern Federal milk marketing orders. Interim amendments changed the location adjustment provisions in the 11 orders effective July 1, 1986, to conform with the Class I differentials mandated by the Food Security Act of 1985, effective on May 1, 1986. The changes are the same as the interim amendments and are based on evidence presented at a public hearing held in Atlanta, Georgia, on February 25–27, 1986. The hearing was requested by Dairymen, Inc. (DI). More than two-thirds of the producers in each of the 11 markets need to approve the amendments to the order for their market. Interested parties were given until June 27, 1986, to file exceptions to the tentative decision that was issued May 28, 1986. This decision responds to the exceptions received.

FOR FURTHER INFORMATION CONTACT: Robert F. Groene, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–2089.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of sections 556 snd 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 7 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities. The proposed amendments modify the transportation allowances provided under the 11 orders to make them conform more closely to the economic conditions that currently exist in the marketplace. The main economic condition involved is the Class I differentials that became effective May 1, 1986, as mandated by the Food Security Act of 1985, and the costs of transporting milk as reflected in such Class I differentials. Reflection of these changed marketing conditions through amendments to plant location adjustments to order prices will not result in a significant added price impact on regulated handlers.

Prior documents in this proceeding:

Notice of Hearing: Issued February 7, 1986; published February 13, 1986 (51 FR 5363).

Extension of Time for Filing Briefs: Issued March 11, 1986.

Tentative Decision: Issued May 28, 1986; Published June 5, 1986 (51 FR 20446).

Interim Amendment of Rules: Issued June 26, 1986; Market Administrators of affected orders notified handlers of July 1, 1986, effective date.

Interim Amendment of Rules: Issued July 17, 1986; published July 22, 1986 (51 FR 26224).

Correction to Tentative Decision: Issued July 17, 1986; published July 22, 1986 (51 FR 26254).

Preliminary Statement

A public hearing was held upon proposed amendments to the marketing agreements and orders regulating the handling of milk in 11 southeastern Federal milk marketing areas. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice (7 CFR Part 900) at Atlanta, Georgia, on February 25–27, 1986. Notice of such hearing was issued February 7, 1986, and published on February 13, 1986 (51 FR 5363).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Assistant Secretary, Marketing and Inspection Services, on May 28, 1986, filed with the Hearing Clerk, United States Department of Agriculture, a tentative decision containing notice of the opportunity to file written exceptions thereto.

Upon approval of the tentative amendments to each of the 11 orders that were set forth in the tentative decision by more than the necessary two-thirds of the producers who during the representative period were engaged in the production of milk for sale in the respective marketing areas, the Deputy Assistant Secretary, Marketing and Inspection Services, issued on June 26, 1986, interim amendments to each of the 11 orders. The market administrators of the affected orders notified handlers prior to the effective date that the amendments were to become effective July 1, 1986. The interim amendments were reissued on July 17, 1986, for the purpose of setting forth the text of the interim amendments to the 11 orders (the prior document of June 26, 1986, had incorporated by reference the proposed amendments contained in the tentative decision issued on May 28, 1986).

Findings and Conclusions

The material issues and findings and conclusions of the tentative decision published in the June 5, 1986, issue of the **Federal Register** (51 FR 20446) and the corrections to the tentative decision published in the July 22, 1986, issue of the **Federal Register** (51 FR 26254) are incorporated by reference in this document and are hereby ratified and affirmed subject to the following corrections, clarifications, and response to exceptions set forth below:

Page	Column	Paragraph	Line	Correction
20446	3	7	7	Change "not a" to "not have a"

Page	Column	Paragraph	Line	Correction
20447	1	5	4	Change "informations" to "informational".
20447	1	6	4	Change "27-27" to "25-27".
20450	2	3	1	Change "of" to "for".
20453	1	2	10 and 11	Delete "distance as determined by the market administrator, the Class I price".
20455	2	1	7	Change "of" to "or".
20456	3	4	7	Change "and" to "an".
20457	3	2	11	Change "Orleans Hall" to "Orleans City Hall".

Response to Exceptions and Clarifications

Interested persons were given until June 27, 1986, to submit exceptions to the tentative decision. Exceptions were received from eight interested parties. A discussion of the exceptions and the Department's response are as follows by market:

Order 7—Georgia

Exceptions to the plant location adjustment rates for the Georgia order were received from Pet Dairy and Kinnett Dairies, Inc. Pet Dairy objected to the plus 30-cent location adjustment applicable at its Waycross, Georgia, plant and to the elimination of a minus 15-cent location adjustment applicable at its Spartanburg, South Carolina, plant. Kinnett Dairies excepted to the plus 10-cent location adjustment applicable at plants located in the south central zone of Georgia.

Pet Dairy submitted the following exceptions to the tentative decision:

(a) There is no substantial evidence of record to support the rationales advanced in the decision for instituting a plus 30-cent location adjustment in the new southern zone of the Georgia marketing area; and

(b) Elimination of the minus 15-cent location adjustment applicable at Spartanburg, South Carolina, is not supported by substantial evidence.

Pet Dairy contends that the decision relied on a single statistic to conclude that there is a danger of a shortage of milk in south Georgia. The single statistic was "25 percent of the Georgia milk produced in December 1985 was moved into plants located in Florida".

There are other statistics in the record indicating the degree to which Florida plants rely on milk production in South Georgia. Of the 8 million pounds of milk produced in counties of South Georgia and pooled under Georgia and the 3 Florida orders during December 1985, 60 percent of such milk was pooled under the 3 Florida orders. Of the 21 million pounds of milk that was produced in counties in South Central Georgia and pooled under the Georgia and 3 Florida orders, during December 1985, more than one-third of such milk was pooled on the Florida markets.

Pet Dairy also disputes the finding that the plus 30-cent location adjustment zone in South Georgia will provide equitable inter-order pricing between Waycross and Jacksonville. Pet Dairy contends that the intra-order price relationships that have prevailed in the Georgia market since 1969 should be reinstituted.

The historical inter-order pricing relationship which has resulted in a difference of 50–55 cents between Waycross and Jacksonville, a distance of 80 miles, is not warranted even at the current costs of transporting milk. As the decision points out, the Class I differential adopted at the Waycross plant location is 20 cents less than the Class I differential at Jacksonville. In view of the 80 miles between the two plant locations, the new Class I differentials reflect a difference of 2.5 cents per 10 miles compared to 6 cents per 10 miles if the historical inter-order pricing were continued.

Pet Dairy argues that the elimination of the minus 15-cent location adjustment at Spartanburg is not warranted. The Dairy takes the position that a change in the order cannot be justified unless it can be inferred that the existing order provisions will more likely than not lead to disorderly marketing conditions.

The usual reason for a minus location adjustment in a given area is to provide an incentive to move milk from that area to a central market location. In recent years, South Carolina has been a net importer of milk to fulfill its fluid milk needs. As a consequence, a minus location adjustment at the Spartanburg plant is no longer appropriate. Also, the arguments advanced provide no basis for changing the prior finding and conclusion regarding the need to provide an equitable competitive price relationship between South Carolina plants and Georgia plants.

Kinnett's exceptions to the adoption of plus location adjustments in the Georgia order are as follows:

(a) The decision is a departure from the 1969 decision that concluded a higher Class I price in South Georgia than in Atlanta was not warranted;

(b) Atlanta continues to be the principal population center of Georgia and, as a consequence, milk moves from south to north in Georgia;

(c) The plus adjustment zones in southern Georgia would result in a substantial impact upon small businesses;

(d) South Central and Southern zones in Georgia enjoy an adequate supply of milk;

(e) Department's proposed termination of a proceeding in August 1985 involving a proposed increase in the Class I price levels in southeastern markets raised the question whether a valid basis could be developed for such increases;

(f) The pricing structure for the State of Georgia is in no way related to the provision of an economic service of benefit to handlers and is thus unauthorized by law; and

(g) The result of the tentative decision is to provide a competitive advantage for Dairymen, Inc., over all its competition in the southern part of the State of Georgia.

In response to Kinnett's exceptions (a) and (b), it is clearly evident in this proceeding that milk does move from north to south in southern Georgia. In December 1985, a minimum of 4,835,406 pounds of bulk milk produced in counties in southern Georgia was pooled under Florida orders. In that same month, a minimum of 6,966,910 pounds of bulk milk produced in counties in South Central Georgia was pooled under the Florida orders. Since Georgia handlers must compete with the higher-priced Florida markets for milk supplies, price increases are needed in South Georgia to help assure that milk will be made available to Georgia plants.

The plus adjustment zone mentioned in Kinnett's exception (c) that affects the Kinnett plant at Columbus is the South Central Zone. The tentative decision provided for a plus 10-cent location adjustment in such zone. This resulted in an increase of less than one percent in the Class I price at the Kinnett plant. Kinnett Dairies' exception provides no basis for concluding that such 10-cent increase results in a significant impact upon a substantial number of small businesses.

With regard to Kinnett's contention that the South Central and Southern Zones in Georgia enjoy an adequate supply of milk, data for December 1985 indicate that of the milk pooled in Georgia and the 3 Florida orders that is produced in these two zones in Georgia, 40 percent of such milk production is pooled under the Florida orders. Thus, plants in Southern Georgia can maintain adequate milk supplies only at prices that are competitive with prices available to producers in the Florida markets.

In its exception (e), Kinnett points to proposed findings in the Department's proposed termination of a proceeding in August 1985. Such proceeding is not a

part of this record and, consequently, may not be relied upon as a basis for findings and conclusions in this proceeding.

Kinnett's contention that the pricing structure for the State of Georgia is in no way related to the provision of an economic service of benefit to handlers is without merit. The pricing structure recognizes the general movement of milk from north to south that occurs in Georgia. As noted in the decision, the plus location adjustments are designed to cover the costs of such movements of milk. Producers provide the service of transporting milk to handlers' plants and thus should be compensated for such service through an adjustment in the price paid for the milk.

Kinnett's final argument is that as a result of the tentative decision, DI has a competitive advantage over all its competition in the southern part of Georgia. Such contention is accurate with regard to plants in the southern area of Georgia selling in the Atlanta area in competition with DI's plant in Atlanta. It is not apparent, however, that DI's Atlanta plant would have a competitive advantage in selling fluid milk in Columbus, Georgia, in competition with the Kinnett's plant. In any event, this argument has little relevance, since minimum order prices apply at the location where milk is received from producers.

This proceeding also presents an opportunity to clarify a provision of the order dealing with payments to producers and cooperative associations. Section 1007.73(a)(2) provides that a handler in making final settlement for milk received during the month shall make such payment on or before the 15th of each month. It is readily apparent that the month in which payment is due under such circumstances has to be a month subsequent to the month during which the milk is received. Accordingly, the order should be modified to make it clear that final settlement for milk received during the month shall be made on or before the 15th day of the following month.

Orders 6, 12 and 13—Upper Florida, Tampa Bay and Southeastern Florida

Eastern Milk Producers Cooperative Association, Inc., excepted to the Department's failure to adopt location adjustments that take into account the added distance that out-of-State milk shipments must travel in order to be received at Cumberland Farm's pool distributing plant located at Riviera Beach, Florida, due to the inspection requirements imposed by Florida health authorities. Cumberland Farms, Inc., also excepted to the Department's conclusion in that regard.

As indicated in the tentative decision, Cumberland Farms ships milk to its pool distributing plant at Riviera Beach, Florida, from the pool supply plant at Dover, Delaware. The milk for the pool supply plant is supplied by producers who are members of Eastern Milk Producers Cooperative Association (EMPCA). The out-of-State milk including milk shipped directly from the farm as well as milk from other order plants must receive clearance from Florida health authorities at the inspection station located in White Springs, Florida, prior to delivery to Florida milk plants.

The exceptions filed by Eastern Milk Producers Cooperative Association and Cumberland Farms contend that the decision not to provide for a location adjustment for the extra distance that out-of-State shipments from pool supply plants must travel to receive clearance from Florida health authorities discriminates against handlers who rely on out-of-State milk supplies. In actuality, adoption of the proposal would be discriminatory, since it would tend to subsidize milk shipments from out-of-State pool supply plants in competition with shipments directly from out-of-State farms and from other order plants.

Cumberland Farms excepted to the Department's adoption of a 2.0-cent location adjustment per hundredweight per 10 miles under the Florida orders. The dairy takes the position that unless there are compelling reasons to differentiate between the orders in the region, the out-of-area location adjustment rates should be the same. Cumberland Farms points out that all orders involved in the hearing except the Florida orders and the Greater Louisiana order (where a 2.2-cent rate was adopted) now have rates of location adjustment more nearly in line with actual transportation costs than the 2.0-cent rate adopted for the Florida orders.

There is no single location adjustment rate that will align Florida Class I prices with the Class I prices in each of the other Federal order markets. For example, the Class I differentials mandated by Congress that became effective May 1, 1986, differ by $1.15 between the Middle Atlantic market and the Southeastern Florida markets. On the basis of distance, the Class I differentials from the Middle Atlantic order to Southeastern Florida reflect an increase of approximately 1-cent per 10 miles. The difference between the Class I differentials in the Chicago Regional order and the Southeastern Florida market is $2.78. Between Eau Claire, Wisconsin, and Southeastern Florida, the Class I differentials reflect an increase of about 1.9 cents per 10 miles.

As pointed out in the tentative decision, the rate of 2 cents per 10 miles results in reasonable price alignment with one of the principal supply areas outside the State of Florida. Furthermore, Eastern Milk Producers Cooperative Association, Inc., the supplier of the Cumberland plant, stated in its exception that it generally concurs with the adoption of a location adjustment rate of 2.0 cents for each ten miles (or fraction thereof), from the City Hall in West Palm Beach, for plants located outside the State of Florida, even though record evidence indicated that a rate of 2.3 cents would have more closely aligned the value of producer milk on an inter-market basis.

The tentative decision indicated that the 2.3-cent location adjustment rate proposed by Cumberland Farms was designed to equate blend prices of two orders at a single plant location. As pointed out in the decision, the equalization of the blend prices of the two orders was not the primary purpose of the hearing. The purpose of the hearing was to amend the location adjustment provisions of the orders so that the value of producers' milk at various plants would be aligned on an intra-market and inter-market basis to reflect changes in the Class I differentials mandated by the Food Security Act of 1985.

Order 11—Tennessee Valley

Section 1011.52(a)(1) should be clarified to provide that the Class I price shall be increased 20 cents for milk received at a plant south of the southern boundary of the States of North Carolina and Tennessee and east of the Mississippi River. As currently constructed, the order language does not give specific directions for determining the Class I price at a plant located south of the boundaries of the 2 states but west of the western terminus of the boundary marker, the southern boundary of Tennessee and the Mississippi River. The alternatives are to extend the southern boundary of Tennessee westward to California or to provide that an area east of the Mississippi River and south of the two-State area shall be in the plus 20-cent adjustment area. The additional requirement that the plant be located east of the Mississippi is consistent with the location adjustment provisions of the Louisville-Lexington-Evansville and Nashville, Tennessee milk orders and, accordingly, should be adopted.

Order 46—Louisville-Lexington-Evansville

DI excepted to the plus 15-cent location adjustment that is applicable at the plant located at Somerset, Kentucky, and the Department's failure to provide a plus 15-cent location adjustment at Lexington, Kentucky. The cooperative proposed that a plus 34-cent location adjustment should apply at the Somerset location and a plus 15-cent location adjustment should apply at Lexington.

DI takes the position that the decision gives the Somerset plant an undue advantage of at least 11 cents over competing handlers regulated by the Tennessee Valley order. In that regard, the cooperative stated that the current advantage at Somerset over Tennessee Valley base zone handlers was increased 51 cents by the decision.

The tentative decision narrowed the difference in the Class I differentials that applied at the the Somerset plant and Tennessee Valley base zone plants. Prior to May 1, 1986, the Class I differentials at the two locations differed by 40 cents per hundredweight. On May 1, 1986, as a consequence of the Food Security Act of 1985, the Class I differentials at the two locations differed by 66 cents. Thus, the plus 15-cent location adjustment provided in this decision narrowed the difference from 66 cents to 51 cents.

As pointed out in the decision, the difference in Class I prices at the Somerset and London plants differed by 23.5 cents prior to the amendments resulting from the Food Security Act of 1985. After the May 1, 1986, change in the Class I differentials and prior to any changes as a result of this proceeding, the Class I differentials at the Somerset plant and the London plant differed by 49.5 cents. The Class I price difference between the two plants as a result of the decision is now 19 cents.

The primary problem inhibiting Class I price alignment at the London and Somerset plants when the plants are not regulated by the same order involves the way Class I differentials are structured under the Tennessee Valley order in comparison with orders regulating marketing areas located to the west of the Tennessee Valley marketing area. In the marketing area of the Tennessee Valley order, a single Class I differential of $2.77 applies at plants located in a broad expanse of territory from north to south, from areas in West Virginia to areas in Georgia. In marketing areas immediately to the west of the Tennessee Valley market, Class I differentials increase in a north-to-south direction. Under such circumstances, there is no way to provide identical Class I prices on an east-west pricing surface between plants regulated under the Tennessee Valley order and the Louisville-Lexington-Evansville order.

In its exceptions, DI pointed out that the tentative decision stated that Southern Belle Dairy testified that Congress had mandated a 26-cent difference in Class I prices between Louisville and Nashville. The cooperative requested that such error be recognized and its influence on the pricing decision at Somerset be appropriately adjusted.

The statement was an inaccurate representation of Southern Belle Dairy's testimony. A review of the record indicates the witness for the dairy testified that the 15-cent difference in Class I prices between Louisville and Nashville that existed prior to May 1, 1986, was increased an additional 26 cents as a result of Congressional action.

With regard to the influence that the error had on the pricing decision at Somerset, we think that it was inconsequential since the decision accurately sets forth the difference between the Class I price at Louisville and Nashville at a number of other places. Such differences in the Class I differentials applicable before May 1, 1986, and the Class I differentials effective May 1, 1986, in each of the 11 southeastern Federal orders are set forth in tabular form on page 20448 of the **Federal Register** published on June 5, 1986. Also, on page 20454 of the decision, paragraph 4, lines 17 and 22, the current Class I differentials for the Louisville and Nashville orders are set forth. Furthermore, the plant location adjustment provided under the Louisville order is a plus 41 cents at a pool plant located in the Nashville marketing area.

With respect to the Class I price that should apply at Lexington, Kentucky, DI indicates that a plus 15-cent location adjustment is warranted at such location. DI also takes the position that a plant at Lexington pooled under the Louisville order and a plant at Winchester pooled under the Ohio Valley order should have the same Class I differential irrespective of which Federal order they are pooled under.

The tentative decision recognized that if the Class I differential at the Winchester plant was established at a level higher than $2.11 as a result of the hearing held at Indianapolis, recognition of such increase and any accommodation to such change could be handled in a final decision.

The tentative decision for the 11 southeastern orders provided for a $2.11 Class I differential at Lexington and the tentative decision involving the Ohio Valley market provided for a $2.11 Class I differential at the Winchester plant location. Such pricing structure complies with DI's position that the two plants should have the same Class I differential.

Southern Belle Dairy excepted to the plus 15-cent location adjustment that applies at the Somerset plant location. The Dairy also indicated that the decision was in error in stating that an intermediate pricing zone is needed in southern Kentucky.

Southern Belle Dairy presented no additional view that was not considered in the decision to establish the plus 15-cent adjustment for the Somerset plant. With regard to the contention regarding the need for an intermediate pricing zone, a plus 15-cent zone has been in effect in southern Kentucky for a number of years. This decision did not establish the intermediate zone. The existing zone was expanded to provide for a plus 15-cent location adjustment at Somerset.

Southeastern Dairies submitted an exception indicating that if the Class I differential at Lexington (and elsewhere) is changed in this decision, then Southeastern Dairies requests further consideration of its proposal regarding the location adjustment that would apply to the uniform price. Southeastern Dairies had proposed at the hearing that when milk of an individual producer is physically received at more than one location (including any nonpool plant) during the month, the location adjustment rate shall be the weighted average of the amounts compiled for the separate locations. In the event 75 percent or more of such producer's milk is delivered to a plant or plants at which the same rate is applicable, such rate shall be applicable to all deliveries of such producer during the month regardless of the point of delivery.

There was no change in this decision regarding the Class I differential that would apply at the Lexington plant (and elsewhere). Accordingly, there is no need to modify the tentative decision in that regard.

Order 93—Alabama-West Florida

Dairy Fresh excepted to the location adjustments applicable at its pool plants at Cowarts and Pritchard, Alabama. With regard to the Class I differential that applies at the two plants, the dairy operator complains that the price is too high.

The plant operator admits that the price applicable at the Cowarts plant appropriately takes into account the competitive relationship between the

Cowarts plant and the plant at Columbus, Georgia, as well as the pricing structure in southern Georgia. Dairy Fresh's contention that the Class I differential at Cowarts is too high because the Class I prices are set too high in southern Georgia provides no basis for changing the Class I differential at Cowarts unless the Class I pricing is also changed in Georgia. The Department in its review of the exceptions to the interim amendments to the Georgia order reaffirmed its conclusion regarding the plus location adjustment zones in south central and southern Georgia.

With regard to the Class I differential of $3.65 at the Pritchard plant, counsel for Dairy Fresh raises the question of whether the $1.00 increase in the Class I differential at New Orleans that was mandated by Congress in the Food Security Act of 1985 is justifiable. Counsel for Dairy Fresh states "the unique circumstances which persuaded Congress to provide an extraordinary price attraction for milk delivered to the city of New Orleans is not contained on the record; nor, obviously, does the record indicate that the same circumstances require the price in Mobile, Alabama, to be increased by about the same amount as the price increase for New Orleans."

What we have on the record is that the Class I price in New Orleans was increased $1.00 per hundredweight effective May 1, 1986, as a result of Congressional action. Whether such price level is due to unique circumstances is irrelevant at this point since we do not have the option of changing the New Orleans Class I differential. Accordingly, such price level must be taken into account in the alignment of Class I differentials at plants in other nearby areas.

Order 94—New Orleans-Mississippi

DI excepted to the Department's conclusion to retain the minus 40-cent location adjustment that has been in effect in the Hattiesburg, Mississippi, area for a number of years. The cooperative points out that such adjustment is too much considering that Hattiesburg is only 110 miles from New Orleans. A further concern expressed by the cooperative is that such adjustment results in a Class I price difference of only 10 cents between the price at Meridian, Mississippi, and Hattiesburg, a distance of nearly 90 miles.

The cooperative contends that application of the Eau Claire, Wisconsin, basing point principle does not support the decision reached. DI points out that Hattiesburg is 1070 miles from Eau Claire, 86 more than Meridian but 100 miles less than New Orleans. DI concludes that there is no economic reason for the decision reached with respect to the price established at Hattiesburg.

In response to DI's exception, it should be pointed out that the minus 40-cent location adjustment at Hattiesburg is not a new adjustment for that location. It is the same adjustment that was applicable at that location when the Class I price differential surface in Federal orders reflected the transportation cost of 1.5 cents per ten miles per hundredweight. Such 40-cent adjustment in light of the present day costs of moving milk represents a more appropriate measure of the location value of milk than such value in prior years when the cost of milk movements were much less. Furthermore, as noted in the tentative decision, the two cooperative associations that supply bulk milk to the Hattiesburg plant supported continuation of the minus 40-cent location adjustment at such location.

Dairy Fresh, the operator of the plant at Hattiesburg, concurred with the Department's decision that a minus 40-cent location adjustment should continue to apply at Hattiesburg. The plant operator noted also the willingness of cooperative associations to deliver milk to Hattiesburg for a Class I differential of $3.45.

Order 96—Greater Louisiana

Dairy Fresh excepted to the plus 50-cent location adjustment that applies in Zone III of the Greater Louisiana order. Such rate results in a $3.78 Class I differential at Baton Rouge. In the opinion of Dairy Fresh, the legislated Class I differentials at Shreveport and New Orleans justify a Class I differential of no more than $3.70 at Baton Rouge. The plant operator expressed the view that the Class I differential at Baton Rouge should be $3.66 which would be equivalent to the Class I differential applicable at Kentwood, Louisiana.

Dairy Fresh's contention that the Class I price at Baton Rouge be equivalent to the Class I price at Kentwood needs to be considered in light of the concerns expressed at the hearing by New Orleans handlers. Such handlers contended that the Class I differential at Baton Rouge and Lake Charles should be established at the same level as the New Orleans price, or 7 cents more than was provided in the tentative decision. As noted by New Orleans handlers, the Class I price at Baton Rouge and Lake Charles for a number of years had been at the same level as the Class I price that prevailed in the New Orleans area. While it is understandable that Dairy Fresh would like to have its Class I price at the Baton Rouge plant established at a lower level, the Class I differential of $3.78 in the Baton Rouge area is a reasonable compromise between the $3.85 Class I differential that New Orleans handlers claim is an appropriate price and the $3.66 Class I differential that the Baton Rouge plant operator claims should apply.

The findings and conclusions in material issue 2 of the tentative decision, dealing with Class I differential applicable under eight southeastern Federal milk orders on bulk milk transferred from a pool plant to an other order plant are amended by the addition of the following 2 paragraphs to read as follows:

DI submitted an exception to the decision not to amend the plant location adjustment provisions of eight orders to provide that milk transferred to an other order plant for Class I use from a pool plant regulated by the order would be subject to a Class I price that is not lower than that which would be applicable at the transferor plant if it was regulated under the other Federal order. The cooperative indicated that the effect of the proposed change would be to limit the amount of the location adjustment credit to pool handlers so that the Class I price for milk moved to other order plants would be comparable to the Class I price applicable to handlers competing with the transferee plants.

The exception submitted by DI presented no information that was not previously considered in denying proponent's proposal. Accordingly, no basis exits for changing the Department's prior conclusion that the proposal should be denied.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth supplement those that were made when the aforesaid orders were first issued and when they were amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) The tentative marketing agreements and the orders, as hereby proposed to be amended, and all the terms and conditions thereof, will tend to effectuate the declared policy of the Act as amended by the Food Security Act of 1985;

(b) The tentative marketing agreements and the orders, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, marketing agreements upon which a hearing has been held; and

(c) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the aforesaid marketing areas, and the minimum prices specified in the tentative marketing agreements and the orders, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest.

Rulings on Exceptions

In arriving at the findings and conclusions and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions, and the regulating provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

In their exceptions, Southern Belle and Dairy Fresh requested that a specific ruling be made on each of the findings submitted in briefs filed by them. In the brief filed by Southern Belle Dairy there were 32 proposed findings. A number of the proposed findings and conclusions when reviewed collectively attempt to explain why Dairymen, Inc., is better off financially to pool its London, Kentucky, plant under the Tennessee Valley order than to pool such plant under the Louisville-Lexington-Evansville order at a somewhat lower Class I price. Such findings appear to have no relevance in determining what Class I differential is appropriate for the London plant.

The majority of the proposed findings are reiterations of testimony presented at the hearing. We believe that it adds nothing to a decision for the Secretary to agree, for example, that statements submitted in a brief were indeed made on certain pages of the transcript as indicated by counsel.

With respect to a request by counsel that the Secretary indicate what weight was given to each proposed finding and conclusion, it is not practicable to indicate to what extent each proposed finding and conclusion influenced the decision reached on the issues. Instead, the decision sets forth the findings that are relied on as the basis for the conclusions reached.

Also, in their exceptions Southern Belle Dairy and Dairy Fresh objected to the denial of a request in its briefs to make findings on the "basis of relevant evidence which was withheld by DI or was presented only in general form when specific data would be more probative." The request was denied on the basis that evidence not presented on the record could not be relied on.

In its exception, Counsel pointed out that the intent of the request was for the Secretary to consider as evidence "a party's reluctance or reticence to provide data within its control once that data is shown to be relevant." We agree with exceptor's point that the weight given to a proponent's evidence may be influenced by such proponent's failure to present certain information that would clearly be relevant. However, a proponent has the right to make its own judgment with respect to whether it has offered sufficient evidence to meet its burden of proof.

Counsel for Dairy Fresh requested that a ruling in the tentative decision be clarified regarding the administrative law judge's ruling denying cross-examination of proponent cooperative's witness regarding over-order pricing by Sunbelt, an organization that established over-order prices in the Southeast. The administrative law judge in the early stages of the hearing ruled that testimony regarding over-order pricing was not relevant to the proceeding. Later in the hearing, the fact that the administrative law judge asked several questions of Dairy Fresh's witness regarding over-order pricing makes it apparent the judge believed the level of over-order pricing was relevant to the proceeding.

It is our view that cross-examination regarding Sunbelt pricing should have been permitted. However, as the tentative decision points out, the level of over-order prices was not a controlling factor in the decision. The relevant prices in this instance for the 11 southeastern markets were the Class I differentials that Congress mandated be made effective on May 1, 1986, in such markets. Accordingly, we do not believe the ruling precluding cross-examination was prejudicial to any interested party.

Dairy Fresh also requests that the Secretary make a finding that "effective prices in Georgia have been the same from South Carolina through South Georgia." As previously noted, the level of over-order pricing was not a controlling factor in the tentative decision. Furthermore, since the level of over-order pricing was not explored in depth at the hearing, the limited testimony on over-order pricing that is in the record is unclear regarding the time period such pricing was in effect. Accordingly, Dairy Fresh's request is denied.

Marketing Agreement and Order

Annexed hereto and made a part hereof are two documents, a Marketing Agreement regulating the handling of milk, and an Order amending the orders regulating the handling of milk in the aforesaid marketing areas, which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered that this entire decision and the two documents annexed hereto be published in the **Federal Register.**

Referendum Order To Determine Producer Approval; Determination of Representative Period; and Designation of Referendum Agents

It is hereby directed that a referendum be conducted and completed on or before the 30th day from the date this decision is issued, in accordance with the procedure for the conduct of referenda (7 CFR 900.300–311), to determine whether the issuance of the attached orders as amended and as hereby proposed to be amended, regulating the handling of milk in the Louisville-Lexington-Evansville and Alabama-West Florida marketing areas is approved or favored by producers, as defined under the terms of the orders, as amended and as hereby proposed to be amended, who during the representative period were engaged in the production of milk for sale within the aforesaid marketing areas.

The representative period for the conduct of such referendum is hereby determined to be September 1986.

The agents of the Secretary to conduct such referendum are hereby designated

to be Arnold M. Stallings for the Louisville-Lexington Evansville order and Dormal Newberry for the Alabama-West Florida order.

Determination of Producer Approval and Representative Period

September 1986 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the orders, as amended and as hereby proposed to be amended, regulating the handling of milk in the aforesaid marketing areas, except the Louisville-Lexington-Evansville and Alabama-West Florida marketing areas, is approved or favored by producers, as defined under the terms of the orders as amended and as hereby proposed to be amended, who during such representative period were engaged in the production of milk for sale within the aforesaid marketing areas.

List of Subjects in 7 CFR Parts 1006, 1007, 1011, 1012, 1013, 1046, 1093, 1094, 1096, 1098 and 1099

Milk marketing orders, Milk, Dairy products.

Signed at Washington, DC, on December 10, 1986.

Karen K. Darling,

Deputy Assistant Secretary, Marketing and Inspection Services.

Order Amending the Orders Regulating the Handling of Milk in Certain Specified Marketing Areas

(This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.)

Findings and Determinations

The findings and determinations hereinafter set forth supplement those that were made when the orders were first issued and when they were amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the aforesaid marketing areas. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said orders as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing areas; and the minimum prices specified in the orders as hereby amended are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said orders as hereby amended regulate the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, marketing agreements upon which a hearing has been held.

Order Relative to Handling

It is therefore ordered that on and after the effective date hereof, the handling of milk in each of the specified marketing areas shall be in conformity to and in compliance with the terms and conditions of the orders, as amended, and as hereby amended, as follows: The provisions of the orders amending the orders contained in the interim amendment of orders issued by the Acting Assistant Secretary, Marketing and Inspection Services, on July 17, 1986 and published in the **Federal Register** on July 22, 1986 (51 FR 26224), shall be and are the terms and provisions of this order, amending the orders, subject to certain clarifications as set forth below:

1. The authority citation for CFR Parts 1006, 1007, 1011, 1012, 1013, 1046, 1093, 1094, 1096, 1098 and 1099 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

PART 1007—MILK IN THE GEORGIA MARKETING AREA

2. The interim amendments to the order published in the **Federal Register** on July 22, 1986 (51 FR 26224), amending §§ 1007.52, 1007.61 and 1007.75 are adopted without change.

3. In § 1007.73(a)(2), the introductory text preceding subparagraph (i) is revised to read as follows:

§ 1007.73 Payments to producers and to cooperative associations.

(a) * * *

(2) On or before the 15th day of the following month at not less than the applicable uniform price(s) for the quantities of milk or base milk and excess milk received from such producer during the month adjusted by the butterfat differential computed pursuant to § 1007.74 and by the location adjustment computed pursuant to § 1007.75 subject to the following:

* * * * *

PART 1006—MILK IN THE UPPER FLORIDA MARKETING AREA

4. The interim amendments to the order published in the **Federal Register** on July 22, 1986 (51 FR 26224), amending § 1006.52 are adopted without change.

PART 1011—MILK IN THE TENNESSEE VALLEY MARKETING AREA

5. The interim amendments to the order published in the **Federal Register** on July 22, 1986 (51 FR 26224), amending § 1011.52 are adopted with the following change:

Section 1011.52(a)(1) is amended by adding after the word "Tennessee" the words "and east of the Mississippi River."

PART 1012—MILK IN THE TAMPA BAY MARKETING AREA

6. The interim amendments to the order published in the **Federal Register** on July 22, 1986 (51 FR 26224), amending § 1012.52 are adopted without change.

PART 1013—MILK IN THE SOUTHEASTERN FLORIDA MARKETING AREA

7. The interim amendments to the order published in the **Federal Register** on July 22, 1986 (51 FR 26224), amending § 1013.52 are adopted without change.

PART 1046—MILK IN THE LOUISVILLE-LEXINGTON-EVANSVILLE MARKETING AREA

8. The interim amendments to the order published in the **Federal Register** on July 22, 1986 (51 FR 26224), amending § 1046.52 are adopted without change.

PART 1093—MILK IN THE ALABAMA-WEST FLORIDA MARKETING AREA

9. The interim amendments to the order published in the **Federal Register** on July 22, 1986 (51 FR 26224), amending § 1093.52 are adopted without change.

PART 1094—MILK IN THE NEW ORLEANS MISSISSIPPI MARKETING AREA

10. The interim amendments to the order published in the **Federal Register** on July 22, 1986 (51 FR 26224), amending §§ 1094.02 and 1094.52 are adopted without change.

PART 1096—MILK IN THE GREATER LOUISIANA MARKETING AREA

11. The interim amendments to the order published in the Federal Register on July 22, 1986 (51 FR 26224), amending $1096.52 are adopted without change.

PART 1098—MILK IN THE NASHVILLE, TENNESSEE, MARKETING AREA

12. The interim amendments to the order published in the Federal Register on July 22, 1986 (51 FR 26224), amending § 1098.52 are adopted without change.

PART 1099—MILK IN THE PADUCAH, KENTUCKY, MARKETING AREA

13. The interim amendments to the order published in the Federal Register on July 22, 1986 (51 FR 26224), amending § 1099.52 are adopted without change.

Marketing Agreement Regulating the Handling of Milk in the Georgia and Certain Other Marketing Areas

The parties hereto, in order to effectuate the declared policy of the Act, and in accordance with the rules of practice and procedure effective thereunder (7 CFR Part 900), desire to enter into this marketing agreement and do hereby agree that the provisions referred to in paragraph I hereof as augmented by the provisions specified in paragraph II hereof, shall be and are the provisions of this marketing agreement as if set out in full herein.

I. The findings and determinations, order relative to handling, and the provisions of §§ ____[1] to ____, all inclusive, of the order regulating the handling of milk in the (_____) marketing area (7 CFR PART ____[2]) which is annexed hereto; and

II. The following provisions:

§ ____[3] Record of milk handled and authorization to correct typographical errors.

(a) *Record of milk handled.* The undersigned certifies that he handled during the month of September 1986, hundredweight of milk covered by this marketing agreement.

(b) *Authorization to correct typographical errors.* The undersigned hereby authorizes the Director, or Acting Director, Dairy Division, Agricultural Marketing Service, to correct any typographical errors which may have been made in this marketing agreement.

§ ____[3] *Effective date.* This marketing agreement shall become effective upon the execution of a counterpart hereof by the Secretary in accordance with § 900.14(a) of the aforesaid rules of practice and procedure.

In witness whereof, The contracting handlers, acting under the provisions of the Act, for the purposes and subject to the limitations herein contained and not otherwise, have hereunto set their respective hands snd seals.

(Signature)

(Seal)

BY

(Name) (Title)

(Address)

Attest

Date

[FR Doc. 86-28022 Filed 12-12-86; 8:45 am]

BILLING CODE 3410-02-M

[1] First and last sections of order.

[2] Appropriate part number.

[3] Next consecutive section number.

Food Safety and Inspection Service

9 CFR Part 310

[Docket Number 85-018P]

Disposition of Livestock Thyroid Glands and Laryngeal Muscle Tissue

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: As a result of the health hazard of thyrotoxicosis associated with the consumption of meat trimmings containing cattle thyroid glands, the Food Safety and Inspection Service (FSIS) is proposing that livestock thyroid glands and the adjacent laryngeal muscle tissue be classified as unfit for human consumption and handled as inedible product. This proposal would assure that thyroid glands are not included in meat trimmings used in the preparation of meat products.

DATES: Comments must be received on or before February 13, 1987.

ADDRESS: Written comments to: Policy Office, Attn: Linda Carey, FSIS Hearing Clerk, Room 3168, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250. (See also "Comments" under Supplementary Information.)

FOR FURTHER INFORMATION CONTACT: Dr. W.S. Horne, Assistant Deputy Administrator, Meat and Poultry Inspection Operations, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-3697.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Agency has determined that this proposed rule is not a major rule under Executive Order 12291. It will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Therefore, a regulatory impact analysis is not required.

Effect on Small Entities

The Agency has determined that this proposal will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601). Therefore, a regulatory flexibility analysis is not required. As a measure to protect the public from adulterated products, FSIS declared, in a notice in August 1985, thyroid glands and larynxes and surrounding tissue as inedible product. FSIS is proposing through this rulemaking proceeding to declare the thyroid gland and laryngeal muscle tissue as inedible for use in human food. This proposal is less restrictive than the requirements currently being followed at official establishments, as the larynxes will not be declared as inedible.

Comments

Interested persons are invited to submit comments concerning this action. Written comments must be sent in duplicate to the Policy Office and should bear reference to the docket number located in the heading of this document. All comments submitted pursuant to this action will be available for public inspection in the Policy Office between 9 a.m. and 4 p.m., Monday through Friday.

Background

Under the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*), the Secretary is responsible for assuring consumers that meat and meat food products distributed to them are wholesome and not adulterated. Section 1(m)(1) of the FMIA (21 U.S.C. 601(m)(1)) provides that any carcass, part thereof, meat, or meat food product is adulterated ". . . if it bears or contains any poisonous or deleterious substance which may render it injurious to health; . . ." Furthermore, section 1(m)(3) of the FMIA (21 U.S.C. 601(m)(3)) states that any carcass, part thereof, meat, or meat food product is adulterated ". . . if it consists in whole or in part of any filthy, putrid, or decomposed substance or is for any reason unsound, unhealthful, unwholesome, or otherwise unfit for human food; . . ."

In August 1985, the Minnesota Department of Agriculture notified FSIS of an outbreak of thyrotoxicosis in portions of Minnesota, South Dakota, and Iowa. Thyrotoxicosis is a condition resulting from excess thyroid hormone levels in the blood. The symptoms

include sleeplessness, nervousness, increased heart rate, shortness of breath, fatigue, excessive sweating, and weight loss. Thyrotoxicosis can be serious, especially in some populations, such as people with pre-existing heart disease. It is suspected that there are a number of possible causes of thyrotoxicosis.

Epidemiological investigations, conducted as a result of this epidemic, have strongly indicated an association of thyrotoxicosis with the consumption of certain ground beef products made from meat trimmings containing cattle thyroid glands.[1] It appears that periodic intake of livestock thyroid tissue results in higher levels of hormones in the human body causing a potentially severe effect.

Except for livers, testicles and thymus, livestock glands are not used as human food (see § 318.1(g) of the Federal meat inspection regulations (9 CFR 318.1(g)). Livestock glands are sold, however, for pharmaceutical use as provided under seetion 314.9 of the regulations (9 CFR 314.9). Although the thyroid gland is not used for human food, it has been common practice for some establishments to trim adjacent muscle tissue and sell the tissue as trimmings for use in various meat products, such as ground beef. This tissue (laryngeal muscle tissue) surrounds the larynx and in cattle accounts for approximately 2 to 3 ounces of edible meat product per carcass; the thyroid gland weighs an average of 37 grams or about 1 ounce and is closely aligned with the muscle tissue surrounding the larynx.

Upon being informed of the association between thyrotoxicosis and consumption of cattle thyroid glands, FSIS promptly took action to determine how and why the thyroid glands were being incorporated into the edible meat trimmings. Investigations soon revealed that in trimming laryngeal muscle tissue, some establishments were cutting too deeply and, thus, were retaining all or a significant portion of the thyroid gland. The owners of a beef slaughtering establishment in Minnesota voluntarily recalled all affected beef trimmings and ground beef products prepared from the affected beef trimmings. In addition, the largest official establishments—producers of approximately 80 percent of all such beef trimmings nationwide—voluntarily ceased using the laryngeal muscle tissue for trimmings.

[1] Preliminary Summary, "Epidemiologic Investigation of an Outbreak of Thyrotoxicosis in Southwestern Minnesota, Eastern South Dakota and Northwestern Iowa." Minnesota Department of Health and Centers for Disease Control. A copy is available for public inspection in the office of the FSIS Hearing Clerk.

On August 29, 1985, FSIS issued an FSIS Notice to all official establishments and other affected parties advising them that, effective immediately, the thyroid gland and the larynx, including the surrounding muscle tissue, would be handled as "inedible" product.[2] Due to the similar coloration and close proximity of the thyroid gland and laryngeal muscle tissue, FSIS determined it to be impractical to attempt to separate the thyroid gland tissue and laryngeal tissue. Thus, all such tissue was deemed as inedible.

FSIS is now issuing this proposed rule to amend the Federal meat inspection regulations by specifically classifying the thyroid glands and laryngeal muscle tissue of all livestock species as inedible and not fit for human consumption. FSIS has determined that since the larynx itself can be separated without including any thyroid gland tissue, this proposal would not address the larynx.

As inedible product, the thyroid glands and laryngeal muscle tissue may be distributed for pharmaceutical use as prescribed in § 314.9 or §325.19(c) of the Federal meat inspection regulations (9 CFR 314.9 or 325.19(c)), provided they are labeled in accordance with § 316.13(f) of the Federal meat inspection regulations (9 CFR 316.13(f)). If not so handled, such inedible product would be disposed of by tanking, incineration, or denaturing as set forth in § 314.1 or §314.3 of the Federal meat inspection regulations (9 CFR 314.1 or 314.3).

List of Subjects in 9 CFR in Part 310

Carcasses and parts, Meat inspection.

PART 310—[AMENDED]

The Federal meat inspection regulations would be amended as follows:

1. The authority citation for Part 310 would be revised to read as set forth below:

Authority: 34 Stat. 1260, 79 Stat. 903, as amended, 81 Stat. 584, 84 Stat. 91, 438; 21 U.S.C. 601 *et seq.*, 33 U.S.C. 1254(b).

2. The "Reserved" designation of § 310.15 would be removed and the section title and contents would be added to read as follows:

§ 310.15 Disposition of thyroid glands and laryngeal muscle tissue.

(a) Livestock thyroid glands and laryngeal muscle tissue shall not be used for human food.

(b) Livestock thyroid glands and laryngeal muscle tissue may be distributed to pharmaceutical manufacturers for pharmaceutical use in accordance with § 314.9 or § 325.19(c) of this subchapter, if they are labeled in accordance with § 316.13(f) of this subchapter. Otherwise, they shall be disposed of at the official establishment in accordance with § 314.1 or § 314.3 of this subchapter.

[2] This Notice is available for public inspection in the office of the FSIS Hearing Clerk.

Done at Washington, DC, on: November 25, 1986.

Lester M. Crawford,

Acting Administrator, Food Safety and Inspection Service.

[FR Doc. 86-28021 Filed 12-12-86; 8:45 am]

BILLING CODE 3410-DM-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86-NM-216-AD]

Airworthiness Directives; Boeing Model 737-300 and 757-200 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD), applicable to certain Boeing Model 737 and 757 series airplanes, which would require reworking the accumulator isolation valve. This proposal is prompted by reports of seized valves on two airplanes. This action is necessary since a valve seized in the closed position can render the parking brake inoperative, which could allow the airplane to move during an emergency evacuation or while parked.

DATES: Comments must be received no later than February 2, 1987.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 86-NM-216-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Robert C. McCracken, Systems and Equipment Branch, ANM-130S; telephone (206) 431-1947. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 86-NM-216-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

There have been two reports of seizing of the slide and sleeve assembly in the brake accumulator isolation valve: one each on a Boeing Model 737 airplane and a Model 757 airplane. In both cases, the accumulator valve was seized in the closed position and would not shuttle.

An accumulator valve stuck in the closed position will block the accumulator pressure for the parking brakes. In the absence of normal hydraulic system pressure, this condition could result in the inability to set the parking brake, or the loss of parking brake pressure, depending on when the system hydraulic pressure was lost. When an emergency condition exists requiring emergency evacuation, the engines are shut down, which results in loss of normal hydraulic systems. If the brake accumulator isolation valve were to seize in the closed position, the parking brake could not be set. This condition, if not corrected, would allow the airplane to move due to wind or a sloping surface, which, in turn, would present a hazard to persons attempting to evacuate the airplane.

The FAA has reviewed and approved Boeing Service Bulletins 757-32-0051, dated June 6, 1986, and 737-32-1161, dated October 2, 1986, which provide rework instructions for the accumulator valves to eliminate valve seizure.

Since this condition is likely to exist or develop on other airplanes of these same type designs, an airworthiness directive is proposed which would require rework of brake accumulator valves in accordance with Boeing Service Bulletins 757-32-0051 and 737-32-1161.

It is estimated that 167 airplanes of U.S. registry would be affected by this AD, that it would take approximately 10 manhours per airplane to accomplish the required rework, and that the average labor cost would be $40 per manhour. Parts kits are being furnished by Boeing at no charge. Based on these figures, the total cost impact of the AD to U.S. operators is estimated to be $66,800.

For the reasons discussed above, the FAA has determined that this document: (1) Involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, Boeing Model 737-300 or 757-200 airplanes are operated by small entities. A copy of the draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Boeing Applies to Models 757-200 and 737-300 airplanes listed in Boeing Service Bulletins 757-32-0051, dated June 6, 1986, and 737-32-1161, dated October 2, 1986, respectively, certificated in any category.

To prevent loss of parking brakes, accomplish the following within the next 6 months after the effective date of this AD, unless already accomplished:

A. Rework the brake accumulator isolation valve in accordance with Boeing Service Bulletin 757-32-0051, dated June 6, 1986, or later FAA-approved revision; or 737-32-1161, dated October 2, 1986, or later FAA-approved revision; as appropriate.

B. An alternate means of compliance or adjustment of the compliance time, which provide an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for accomplishment of the rework required by this AD.

All persons affected by this proposal who have not already received the appropriate service information from the manufacturer may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124-2207. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on December 8, 1986.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-27974 Filed 12-12-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 84-CE-28-AD]

Airworthiness Directives; Gulfstream Aerospace Models 112, 112B, 112TC, 112TCA, 114, and 114A Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: Following publication of a Notice of Proposed Rulemaking on October 9, 1984 (50 FR 39565), Amendment 39-5003, Airworthiness Directive (AD) 85-03-04, was published February 21, 1985 (51 FR 7165), effective March 25, 1985, as corrected March 19,

1985 (51 FR 10935). That AD, which supersedes AD 77-16-09, requires modification of the front seat base structure and relocation of the shoulder strap anchor on Gulfstream Models 112 and 114 series airplanes. Subsequently, the effectivity of Amendment 39-5003 was suspended effective July 2, 1985 (51 FR 26979), to enable the FAA to consider more fully information submitted by a petitioner which raised substantial issues in support of rescission of the amendment. The petition to rescind the AD questioned whether the modification imposed by AD 85-03-04R1 offered a significant improvement over that required by AD 77-16-09.

This notice proposes to revise and reissue AD 85-03-04R1 to have the effect of allowing either the modification of AD 77-16-09 or the modification specified in AD 85-03-04R1 as being acceptable.

DATES: Comments must be received on or before January 16, 1987.

ADDRESSES: Gulfstream Aerospace Service Bulletin Nos. SB-112-45A and SB-114-21A, both dated April 7, 1977, and SB 112-70A and SB-114-21A, both dated June 6, 1986, applicable to this AD may be obtained from Gulfstream Aerospace Corporation, Wiley Post Airport, P.O. Box 22500, Oklahoma City, Oklahoma 73123, or the Rules Docket at the address below. Send comments on the proposal in duplicate to Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 84-CE-28-AD; Room 1558, 601 East 12th St., Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. Tom Dragset, Airplane Certification Branch, ASW-150, FAA, Southwest Region, P.O. Box 1689, Fort Worth, Texas 76101; Telephone (817) 624-5155.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Director before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA public contact concerned with the substance of the proposed AD will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 84-CE-28-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Discussion

On March 22, 1985, a petition was filed on behalf of the Aircraft Owners and Pilots Association (AOPA) for reconsideration of Airworthiness Directive (AD) 85-03-04, Amendment 39-5003, Docket 84-CE-28-AD, under the provisions of Section 11.93 of the Federal Aviation Regulations (FAR). The AD requires modification of the front seat base structure and relocation of the shoulder strap anchor on certain Gulfstream Aerospace (formerly Rockwell) Model 112, 112B, 112TC, 112TCA, 114, and 114A airplanes.

The AOPA specifically requested the FAA to rescind the AD in its entirety because it is contrary to the public interest in that the rule does not offer a significant improvement over the AD (AD 77-16-09) it supersedes.

The AOPA asserts that the FAA incorrectly concluded on two other occasions (original certification and the previous AD) that the manufacturer's test data proved that the seat design provided for an acceptable level of safety and that the latest manufacturer's testing and resultant modification should be carefully reviewed by the FAA.

The AOPA also recommended that the FAA should use the operating experiences from affected owners in reconsidering AD 85-03-04.

The FAA reopened the investigation of the Gulfstream seat installation in response to the petition and has given consideration to the major issues raised.

While the initial seat design static tests were incomplete, the subsequent redesign was tested properly to the certification requirements and that revised configuration was made mandatory by AD 77-16-09. Subsequent seat failures during apparently survivable accidents prompted the latest seat attachment design, which the FAA has also confirmed was fully and properly tested in accordance with the appropriate rules. It has not been possible, however, to definitively establish that the accident loads and load factors in the apparently survivable accidents were within the emergency landing condition load factor envelope of FAR 23.561.

In view of the additional information that has come to light since the issuance of AD 85-03-04, including that presented by AOPA and Gulfstream Aerospace, sufficient justification exists to propose that the AD be revised. At the same time, the latest seat retention configuration has been substantiated to higher than the present static load requirements as a means to compensate for the fuselage deflection phenomena of this design that affects the seat retention.

Therefore, the FAA proposes to revise and reissue AD 85-03-04R1 to allow either configuration to be acceptable. There will be no cost to the public associated with this revision.

Therefore, I certify that this action: (1) Is not a major rule under the provisions of Executive Order 12291, (2) is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), and (3) if promulgated will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation has been prepared for this action and has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **"ADDRESSES".**

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the FAA proposes to amend § 39.13 of Part 39 of the FAR as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421, and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By revising and reissuing AD 85-03-04R1 in its entirety as follows:

Gulfstream Aerospace (Rockwell): Applies to Models 112 and 112B (S/N's 1 through 499 and 13000); Models 112TC and 112TCA (S/N's 13001 through 13149); and Models 114 and 114A (S/N's 14000 through 14149) airplanes certificated in any category.

Compliance: Required as indicated after the effective date of this AD, unless already accomplished.

To improve seat retention and passenger restraint during crash landing or accident impact, accomplish the following:

(a) Within the next 100 hours time-in-service, or one calendar year after the effective date of this AD, whichever comes first, modify the front seats and belt attachments in accordance with one of the following modifications:

(1) Rockwell Service Bulletin Nos. SB–112–45A or SB–114–5A, both dated April 7, 1977, as applicable, or,

(2) Gulfstream Aerospace Service Bulletin Nos. SB–112–70A or SB–114–21A, both dated June 6, 1986, as applicable.

Note.—The modification specified in paragraph (a)(1) above is the modification referenced in AD 77–16–09. The modification specified in paragraph (a)(2) above is the modification referenced in AD 85–03–04R1.

(b) The airplane may be flown in accordance with 21.197 to a location where the repair can be performed.

(c) An equivalent method of compliance with this AD may be used if approved by the Manager, Airplane Certification Branch, ASW–150, FAA Southwest Region, 4400 Blue Mound Road, Fort Worth, Texas 76101; Telephone (817) 624–5150.

All persons affected by this directive may obtain copies of the documents referred to herein upon request to Gulfstream Aerospace Corporation, Wiley Post Airport, P.O. Box 22500, Oklahoma City, Oklahoma 73123; or FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

This AD revises AD 85–03–04R1, Amendment 39–5003.

Issued in Kansas City, Missouri, on December 2, 1986.

Edwin S. Harris,

Director, Central Region.

[FR Doc. 86–27976 Filed 12–12–86; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 864

[Docket No. 85N–0280]

Medical Devices, Reclassification of the Automated Differential Cell Counter

AGENCY: Food and Drug Administration.

ACTION: Notice of intent.

SUMMARY: The Food and Drug Administration (FDA) is announcing its intent to initiate a proceeding to reclassify from class III (premarket approval) into class II (performance standards) the automated differential cell counter (ADCC). The ADCC is a medical device intended to identify and classify one or more of the formed elements of the blood. This action is being taken under the Medical Device Amendments of 1976.

DATE: Comments by February 13, 1987.

ADDRESS: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joseph L. Hackett, Center for Devices and Radiological Health (HFZ–440), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7550.

SUPPLEMENTARY INFORMATION: In the **Federal Register** November 20, 1985 (50 FR 48058), FDA proposed to require the filing of a premarket approval application or a notice of completion of a product development protocol for the ADCC device. FDA also announced an opportunity for interested persons to request the agency to change the classification of the device based on new information. The actions were taken under the Medical Device Amendments of 1976 (Pub. L. 94–295) to the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 301 et seq.).

On November 27, 1985, the Health Industry Manufacturers Association (HIMA), Washington, DC 20005, submitted to FDA under section 515(b) of the act (21 U.S.C. 360e(b)) a petition to reclassify the generic type of device ADCC (21 CFR 864.5220) from class III into class II. Valid scientific evidence in the petition caused FDA to tentatively conclude to initiate proceedings to reclassify the device following the procedures in 21 CFR 860.130 and 860.132 regarding reclassification of devices under section 513(e) of the act (21 U.S.C. 360c(e)) based on new information about the device. FDA referred the petition to the Hematology and Pathology Devices Panel (the Panel), one of FDA's advisory committees, for its recommendation on the change in classification requested by the petition. During an open meeting of the Panel on April 24, 1986 (see the **Federal Register** of March 12, 1986; 51 FR 8560), the Panel considered the petition and recommended that the ADCC be reclassified from class III into class II. Accordingly, under section 515(b) of the act and 21 CFR 860.132(a) of the regulations governing reclassification under section 515(b) of the act, FDA is announcing its intent to initiate a proceeding under section 513(e) of the act and 21 CFR 860.130 to change the classification of the ADCC device.

A copy of HIMA's petition and supporting exhibits, the transcript and summary minutes of the Panel meeting, and the comments received on the petition are on file in the Dockets Management Branch under Docket No. 85N–0280 and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

FDA invites public comment regarding any impact that reclassification of the ADCC device would have on: (1) Manufacturers, distributors, or licensed practitioners; (2) the costs or prices paid by consumers; (3) governmental agencies or geographic regions; (4) whether the rulemaking would have significant or adverse effects on competition, employment, investment, productivity, innovation, or (5) the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets. Data and information supporting any such comments would be helpful. Comments are to be submitted to the Dockets Management Branch (address above). Two copies are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The agency will address the requirements of the Regulatory Flexibility Act and Executive Order 12291 when any proposal based on this notice of intent is published in the **Federal Register.**

Dated: December 9, 1986.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 86–27978 Filed 12–12–86; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 5

[Notice No. 613; Re: Notice Nos. 480, 491, 549, 555, 577, 590]

Reduced Proof Distilled Spirits Products

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Withdrawal notice.

SUMMARY: ATF is withdrawing from further consideration the advance notice of proposed rulemaking on reduced proof distilled spirits products. The current policy will remain unchanged on labeling of distilled spirits bottled at less than the established minimum proof for each particular class and type of distilled spirits. This policy requires that the word "Diluted" shall appear as conspicuously as the class designation.

DATE: December 15, 1986.

FOR FURTHER INFORMATION CONTACT: John A. Linthicum, FAA, Wine and Beer Branch, (202) 566–7626.

SUPPLEMENTARY INFORMATION:

Petitions

On March 7, 1983, Heublein Spirits Group, a producer of distilled spirits products, petitioned ATF to allow the word "light," or "mild," or some other word, or words, to replace the word "diluted" on labels of distilled spirits products to denote lower alcohol content. Alternatively, Heublein requested that ATF establish new classes and types of distilled spirits products designated "light" or "mild" and having lower alcohol content.

On November 20, 1985, Joseph E. Seagram & Sons, Inc., another producer of distilled spirits products, petitioned ATF to allow the words "reduced alcohol" to be used on labels of distilled spirits which achieve a lower alcohol content through centrifugal film evaporation, or a similar distillery process, while retaining the requirement for the word "diluted" for distilled spirits which achieve a lower alcohol content by the addition of water or another diluent.

ATF considered Seagram's petition as part of the same project, since it related to the same label requirement for the word "diluted."

Published Documents

In response to these petitions, ATF published the following documents in the **Federal Register**: Advance notice of proposed rulemaking, Notice No. 480, published on August 4, 1983, at 48 FR 35460; extension of first comment period, Notice No. 491, published on October 28, 1983, at 48 FR 49870; opening of second comment period, Notice No. 549, published on November 13, 1984, at 49 FR 44921; extension of second comment period, Notice No. 555, published on January 30, 1985, at 50 FR 4236; opening of third comment period, Notice No. 577, published on January 13, 1986, at 51 FR 1393; extension of third comment period, Notice No. 590, published on April 10, 1986, at 51 FR 12342.

Background

Since the repeal of Prohibition, ATF and its predecessor agencies have regulated the composition of distilled spirits products by strictly defined standards of identity prescribed in Federal regulations. These standards have remained relatively unchanged for over 50 years, but, even when they were promulgated, they reflected longstanding popular opinion of the composition of these products. The minimum alcohol content for bottled distilled spirits products are prescribed in 27 CFR 5.22, as follows:

80° proof—neutral spirits, alcohol, vodka, grain spirits (all *Class 1*), whisky (*Class 2*), gin (*Class 3*), brandy (*Class 4*), blended applejack (*Class 5*), rum (*Class 6*), tequila (*Class 7*);

70° proof—flavored brandy, flavored gin, flavored rum, flavored vodka, flavored whisky (all *Class 9*);

60° proof—rye liqueur, bourbon liqueur (both *Class 8, type 2*), rum liqueur, gin liqueur, brandy liqueur (all *Class 8, type 4*);

48° proof—rock and rye, rock and bourbon, rock and brandy, rock and rum (all *Class 8, type 3*);

no minimum proof—all other distilled spirits products.

The Federal Alcohol Administration, a predecessor agency of ATF, issued Circular FA–91 on January 21, 1937, permitting the labeling of diluted distilled spirits. This circular required that distilled spirits bottled at less than the minimum proof be labeled with the following, in direct conjunction with the class designation: (1) The word "Diluted" as conspicuously as the class designation, (2) the actual proof, and (3) the phrase "United States Government Standard for (*class and type of product*) Requires Not Less Than ____ Proof."

In 1975, ATF issued ATF Ruling 75–32 (1975 ATF C.B. 31) which eliminated and prohibited the third requirement mentioned above. This ruling, which imposes the first two requirements mentioned above, is ATF's current policy on labeling distilled spirits bottled at less than the established minimum proof.

In 1966 and 1967, the Alcohol and Tobacco Tax Division of the Internal Revenue Service, a predecessor agency of ATF, published notices of proposed rulemaking and held public hearings in response to petitions from industry members for the establishment of new classes and types of distilled spirits products. The industry was interested in producing whisky utilizing the same methods used in Canada Scotland, and Ireland, so that an American whisky could be produced which was more analogous to those whiskies than other types of American whisky. As a result of those proceedings, the A&TT Division published Treasury decision 6945 on January 26, 1968, at 33 FR 983, establishing a new type of American whisky designated "light whisky."

The standard of identity for American "light whisky," prescribed in 27 CFR 5.22(b)(3), requires that it be: (1) Produced on or after January 26, 1968, (2) distilled at more than 160° proof, and (3) stored in used or uncharred new oak containers. These requirements are unlike any other type of American whisky. The standard of identity for all whiskies, including "light whisky," prescribed in 27 CFR 5.22(b), requires a minimum alcohol content of 80° proof at the time of bottling.

Discussion

As discussed above, a whisky labeled "light" does not contain less alcohol than other whiskies. Beginning in 1968 when light whisky was first introduced, several major distillers redesignated their longstanding popular brand names to this new type of whisky. Consumers understand "light whisky" as a different type of whisky sold at the same minimum alcohol content as other whiskies.

Also, a rum labeled "light" does not contain less alcohol than other rums. Consumers understand "light rum" as a product with a different color, but the same minimum alcohol content as "dark rum."

By analogy, a consumer could be easily confused if he/she saw the word "light" meaning lower alcohol content on labels of some distilled spirits, but meaning something different on labels of other distilled spirits.

Principal Questions for Public Comment

Although Notice Nos. 480, 549, and 577 asked a series of specific questions relating to this issue, the principal questions are based on the above discussion.

ATF focused on a single question during the first two comment periods: Should ATF replace the label word "diluted" with some other word, or words, on distilled spirits bottled at less than the established minimums for alcohol content?

During the third comment period, the Seagram's petition raised a second question: Should ATF replace the label word "diluted" with "reduced alcohol" on distilled spirits which have had alcohol removed by centrifugal film evaporation, or a similar distillery process, while retaining the requirement for the label word "diluted" on distilled

spirits which achieve lower alcohol content by addition of water or a similar diluent?

A corollary of the second question is a third question: Does centrifugal film evaporation, or any similar dIstillery process, produce a distilled spirits product which is significantly different from one which is diluted?

Analysis of Comments

The following is a summary of the 1,289 comments received:

In favor	443
Opposed	829
No preference	17
Total	1,289

The following opinions were most frequently stated in favor of replacing the word "diluted": It would promote moderation; it would provide a greater selection of products for consumers; allowing the term "light" for wine and beer, but not for distilled spirits, is discriminatory.

The following opinions were most frequently stated in opposition to replacing the word "diluted": It would promote intemperance; it would cause consumer confusion; it would result in reduced value for the consumer dollar; it would result in reduced Federal tax revenue.

No comments were in favor of Seagram's proposal. The most frequent opinions in opposition to it were: Attempting to draw a distinction between "reduced alcohol" and "diluted" would be confusing, deceptive, and meaningless to the consumer; Seagram possesses centrifugal film evaporation equipment, giving them a competitive advantage over distillers who do not; centrifugal film evaporation removes essential character elements, altering the product.

Analysis of Samples

During the third comment period, Heublein submitted, with their public comment, parallel samples of (1) a product at full-strength, (2) the same product subjected to centrifugal film evaporation, and (3) the same product diluted with water. The ATF Laboratory analyses of these samples found that centrifugal film evaporation significantly alters the character of the original product, resulting in a change in the class and type, and disqualification from the designation of the original product.

The public comment of the Scotch Whisky Association reported the same results in similar tests conducted by one of its members. In addition, one distiller requested an extension of the comment period so that similar tests could be conducted. Based on the results of the ATF Laboratory's tests, ATF has decided not to extend the comment period for this purpose.

Conclusions

1. ATF concludes that a minimum alcohol content should remain an integral part of the standard of identity for those traditional distilled spirits products to which such minimums have applied since before Prohibition. The requirement for the word "diluted" fulfills the need to inform the consumer that a product is below the minimum standard for established products. No evidence was presented that any other word is more suitable for conveying the impresssion that a product is below standard. Therefore, the proposal is withdrawn from further consideration, and the current policy, requiring the word "diluted," is retained unchanged.

2. Based on the results of the ATF Laboratory's tests, ATF concludes that bourbon whisky and tequila subjected to centrifugal film evaporation may not retain their original designation, since the process significantly alters the character of the resultant product. ATF's formula-approval and label-approval policy is that products subjected to centrifugal film evaporation will be evaluated on a case-by-case basis to determine whether the finished product has been significantly altered by the process. It is likely that whiskies and brandy will also be significantly altered by centrifugal film evaporation. Distilled spirits products subjected to centrifugal film evaporation which are found to be significantly altered must be designated with a distinctive or fanciful name, dissimilar to the name of any established class of distilled spirits product. The label for products found to be significantly altered must contain a statement of composition—in this case, a reference to use of centrifugal film evaporation in the production process.

Drafting Information

This principal author of this document is John A. Linthicum, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority: 27 U.S.C. 205.

Signed: November 10, 1986.

Stephen E. Higgins,

Director.

Approved: November 28, 1986.

Michael H. Lane,

Acting Assistant Secretary (Enforcement).

[FR Doc. 86-27987 Filed 12-12-86; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 914

Indiana Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

ACTION: Reopening and extension of public comment period.

SUMMARY: On June 11, 1986, the Indiana Department of Natural Resources submitted to OSMRE a set of proposed amendments consisting of Senate Enrolled Act No. 41, amendments to the Indiana Surface Mining Law, and House Enrolled Act No. 1339, the new State Administrative Adjudication Act.

OSMRE published a notice in the **Federal Register** July 3, 1986, announcing receipt of the amendments and inviting public comment on their adequacy (51 FR 24388). The public comment period ended August 4, 1986. During its review of Indiana's proposed amendments OSMRE identified some concerns relating to the provisions on "temporary relief" and to certain Administrative Adjudication Act provisions.

Indiana responded on November 7, 1986, by submitting additional information and explanation concerning the proposed amendments.

Accordingly, OSMRE is reopening and extending the comment period for Indiana's proposed amendment and explanatory information. This action is being taken to provide the public an opportunity to reconsider the adequacy of the proposed amendment in light of the additional information.

DATE: Written comments relating to Indiana's proposed modifications of its program not received on or before 4:00 p.m. on December 30, 1986, will not necessarily be considered in the Director's decision to approve or disapprove the amendments.

ADDRESSES: Written comments should be mailed or hand-delivered to Mr. Richard D. Rieke, Director, Indiana Field Office, Office of Surface Mining Reclamation and Enforcement, Federal Building and U.S. Courthouse, Room 522, 46 East Ohio Street, Indianapolis, Indiana 46204; Telephone: (317) 269-2600.

Copies of the Indiana program, the proposed amendment, and all written comments recieved in response to this notice will be available for review at the OSMRE offices and the office of the

State Regulatory Authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m. excluding holidays.

Office of Surface Mining Reclamation and Enforcement, Room 5315A, 1100 "L" Street, NW., Washington, DC 20240

Office of Surface Mining Reclamation and Enforcement, Federal Building and U.S. Courthouse, Room 522, 46 East Ohio Street, Indianapolis, Indiana 46204

Indianapolis Department of Natural Resources, 608 State Office Building Indianapolis, Indiana 46204

FOR FURTHER INFORMATION CONTACT: Mr. Richard D. Rieke, Director, Indianapolis Field Office, Office of Surface Mining Reclamation and Enforcement, Federal Building and U.S Courthouse, Room 522, 46 East Ohio Street, Indianapolis, Indiana 46204; Telephone: (317) 269–2600.

SUPPLEMENTARY INFORMATION: Information regarding the general background on the Indiana State Program including the Secretary's Findings, the disposition of comments and a detailed explanation of the conditions of approval of the Indiana program can be found in the July 26, 1982 **Federal Register** (47 FR 32071–32106).

On June 11, 1986, the Indiana Department of Natural Resources submitted to OSMRE pursuant to 30 CFR 732.17, proposed State program amendments for approval. The amendments are contained in Senate Enrolled Act No. 41, which amends the Indiana Surface Mining Law at IC 13–4.1, and House Enrolled Act No. 1339, the New State Administrative Adjudication Act at IC–4–21–.5.

OSMRE announced receipt of the amendments and initiated a public comment period on July 3, 1986 (51 FR 24388). The public comment period ended on August 4, 1986. A public hearing scheduled for July 28, 1986, was not held because no one expressed a desire to present testimony.

During the review of Indiana's proposed amendments, OSMRE identified the following concerns.

1. Senate Enrolled Act No. 41 would delete language allowing a person to request temporary relief under Indiana Code (IC) 13–4.1–11–8.

2. House Enrolled Act No. 1339 Chapter 3, section 6(d) would allow a lapse of 15 days or more between the citing of a violation and issuance of a notice of violation.

3. Intervention rights described in House Enrolled Act No. 1339 Chapter 3, section 21 would be more restrictive than intervention rights provided in 43 CFR 4.110.

4. Certain provisions in House Enrolled Act No. 1339, IC 4–21.5 section 25(d) could infringe on a party's right to due process.

OSMRE notified Indiana of these concerns in a letter dated October 6, 1986. Indiana responded in a letter dated November 7, 1986, by submitting modifications and additional information on an explanation of its proposed amendments.

The full text of the proposed program amendment and the additional material are available for review at the locations listed above under **"ADDRESSES"**.

Accordingly, the Director, OSMRE is now seeking public comments on the adequacy of the State's submissions. The public comment period is hereby extended to December 30, 1986. All comments should be submitted to the location shown above under **"ADDRESSES"** in order to be considered by the Director in his decision on the program amendment.

List of Subjects in 30 CFR Part 914

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: December 9, 1986.

H. Leonard Richeson,

Acting Assistant Director, Program Policy.

[FR Doc. 86–27988 Filed 12–12–86; 8:45 am]

BILLING CODE 4310–05–M

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30 CFR Part 916

Reopening and Extension of Public Comment Period; Proposed Amendments; Kansas Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcenent (OSMRE), Interior.

ACTION: Reopening and extension of public comment period.

SUMMARY: By letter dated April 23, 1986, Kansas submitted program amendments to State regulations contained in the Kansas program. The amendments were submitted in response to OSMRE's revision of the Federal regulations. OSMRE published a notice in the **Federal Register** on June 19, 1986, announcing receipt of the amendments and inviting public comment on the adequacy of the proposed amendments (51 FR 22306).

Following a review of the Kansas amendments, OSMRE notified the State on October 1, 1986 of its concerns regarding some of the amendments. By letter dated November 7, 1986, the State informed OSMRE of the actions it will take to remedy the deficiencies OSMRE found in the proposed amendments.

Accordingly, OSMRE is reopening and extending the comment period on Kansas' April 23, 1986 amendments as modified on November 7, 1986. This action is being taken to provide the public with an opportunity to reconsider the adequacy of the reproposed amendments.

DATES: Written comments, data or other relevant information relating to this rulemaking not received on or before 4:00 p.m. December 30, 1986, will not necessarily be considered in the Director's decision to approve or disapprove the amendment.

ADDRESSES: Written comments should be mailed or hand delivered to: William J. Kovacic, Director, Kansas City Field Office, Office of Surface Mining Reclamation and Enforcement, 1103 Grand Avenue, Room 502, Kansas City, Missouri 64106; Telephone: (816) 374–5527.

Copies of the Kansas program, the proposed modification to the program and all written comments received in response to this notice will be available for public review at the Kansas City Field Office, listed above, and at OSMRE Headquarters Office, and the office of the State regulatory authority listed below, during normal business hours Monday through Friday, excluding holidays. Each requestor may receive, free of charge, one single copy of the proposed amendments by contacting OSMRE's Kansas City Field Office.

Office of Surface Mining Reclamation and Enforcement, Room 5315A, 1100 "L" Street, NW., Washington, DC 20240

Kansas Mined Land Conservation and Reclamation Board, 107 W. 11th Street, Pittsburg, Kansas 66762

FOR FURTHER INFORMATION CONTACT: Mr. William J. Kovacic, Director, Kansas City Field Office, Office of Surface Mining Reclamation and Enforcement, 1103 Grand Avenue, Kansas City, Missouri 64106; Telephone: (816) 374–5527.

SUPPLEMENTARY INFORMATION:

I. Background

The Kansas program was conditionally approved by the Secretary of the Interior on January 21, 1981. Information pertinent to the general background, revisions, modifications, and amendmens to the Kansas program submission as well as the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Kansas

program can be found in the January 21, 1981 **Federal Register** (46 FR 5892). Subsequent actions taken with regard to Kansas' approved program amendments and required amendments can be found at 30 CFR 916.15 and 916.16.

II. Proposed Amendments

By letter dated April 23, 1986, Kansas submitted a package of proposed amendments to OSMRE. The amendments were proposed in response to revisions made to the Federal regulations contained in 30 CFR Chapter VII under SMCRA. The Kansas amendments generally incorporated by reference the revised Federal regulations.

OSMRE announced receipt of the amendments and initiated a public comment period on June 19, 1986 (51 FR 22306). The comment period closed cn August 14, 1986.

During review of these amendments, OSMRE identified several concerns. Many of them arose from the U.S. district court's decision on the challenged Federal regulations. OSMRE notified Kansas of its concerns by letter dated October 1, 1986.

By letter dated November 7, 1986, Kansas outlined its proposed remedies to meet OSMRE's concerns. The full text of the letter is available for review at the locations listed above under **"ADDRESSES"**. OSMRE is now seeking comment on the November 7, 1986 proposed amendments. If the Director determines that the proposed amendments are no less stringent than SMCRA and no less effective than the Federal regulations, the amendments will be approved and become part of the approved regulatory program for the State of Kansas.

List of Subjects in 30 CFR Part 916

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: December 9, 1986.

H. Leonard Richeson,

Acting Assistant Director, Program Policy.

[FR Doc. 86-27989 Filed 12-12-86; 8:45 am]

BILLING CODE 4310-05-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-6719]

Proposed Flood Elevation Determination; Deletion

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule; deletion.

SUMMARY: The Federal Emergency Management Agency has published a listing which included the proposed flood elevation determination for the Unincorporated Areas of Lauderdale, Tennessee, at 51 FR 24401, on July 3, 1986. This notice will serve to delete Lauderale County from that list.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Matticks, Acting Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472 (202) 646-2751.

SUPPLEMENTARY INFORMATION: As a result of a recent engineering analysis, the Federal Emergency Management Agency has determined that the notice of proposed flood elevation determination for Lauderdale County, published at 51 FR 24401, on July 3, 1986, should be deleted.

Issued: December 8, 1986.

Harold T. Duryee,

Administrator, Federal Insurance Administration.

[FR Doc. 86-28040 Filed 12-12-86; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 74-14; Notice 49]

Federal Motor Vehicles Safety Standards; Occupant Crash Protection

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Denial of petition for rulemaking.

SUMMARY: Standard No. 208, *Occupant Crash Protection,* provides for the phased-in implementation of an automatic restraint requirement for the front outboard seats in passenger cars, beginning on September 1, 1986, with full implementation to take place on September 1, 1989. The standard also provides that if two-thirds of the population of the United States is covered by effective safety belt use laws by April 1, 1989, then the automatic restraint requirement will be rescinded.

Rolls-Royce Motors has petitioned the agency to extend the initial stage of the phase-in period by four months. Rolls-Royce said that extending that stage will allow it to introduce driver-only air bag systems in its vehicles. NHTSA has decided to deny the Rolls-Royce petition since an extension would delay the prompt and orderly introduction of automatic restraints in the first stage of the phase-in and the safety benefits associated with those restraint systems.

FOR FURTHER INFORMATION CONTACT: Dr. Richard Strombotne, Chief, Crashworthiness Division, National Highway Traffic Safety Administration, Room 5320, 400 Seventh Street, SW., Washington, DC 20590 (202-366-2264).

SUPPLEMENTARY INFORMATION: Standard No. 208, *Occupant Crash Protection,* provides for the phased-in implementation of an automatic restraint requirement for the front outboard seats in passenger cars, beginning on September 1, 1986, with full implementation to take place on September 1, 1989. The standard also provides that if two-thirds of the population of the United States is covered by effective safety belt use laws by April 1, 1989, then the automatic restraint requirement will be rescinded.

In October 1986, Rolls-Royce Motors petitioned the agency for an amendment to Standard No. 208, *Occupant Crash Protection,* that would extend the initial stage of the automatic restraint phase-in period for four months. The first stage began on September 1, 1986, and continues through August 31, 1987. Rolls-Royce requested that this stage be extended through December 31, 1987, in order to improve its ability to introduce a driver-only air bag system for its vehicles. As discussed in this notice, NHTSA had decided to deny the Rolls-Royce petition.

Basis for the Petition

Rolls-Royce explained that it has been working on developing an air bag system for its vehicles. It planned to introduce a driver-only air bag system for the 1987 model year and a passenger-side air bag system for the 1990 model year. Rolls-Royce explained that because of its limited engineering resources, it subcontracted the air bag program, while its engineers continued to work on an automatic safety belt system that could be used in its vehicles should there be delays in the development of the air bag system. Rolls-Royce said that the "subcontract development and certification of our air bag programme is going well. However, we are concerned that we are unlikely to be able to release to production and procure the necessary parts in time to support manufacture of the required 10% of our cars for the United States market in the year up to September 1, 1987."

Rolls-Royce said that "availability of additional leadtime would significantly

improve our ability to introduce a driver's air bag system from the commencement of the phase-in period on the greater part of our production volume." In providing additional details about its plans, Rolls-Royce said that if the initial stage of the phase-in period were extended, it planned to install driver-only air bags on its four-door sedan, which represents approximately 70 percent of the vehicles it markets in the United States. Rolls-Royce further said that if it has "to fit passive safety belts, we will only provide them on sufficient of our cars to meet the required minimum fitment percentages as they will be unattractive to our customers."

Prior Rejection of Carry-Back Credits

As discussed in previous notices, the agency is interested in promoting the development and installation of a variety of automatic restraint systems. Therefore, the agency supports Rolls-Royce's plan to provide air bag systems in its vehicles. However, the Rolls-Royce petition asks, in effect, the agency to allow manufacturers to carry-back credits earned during a later stage of the phase-in period to compensate for not meeting the production phase-in requirements during the first stage of the phase-in. NHTSA has previously considered and rejected the use of carry-back credits.

In August 1985 (50 FR 35233), the agency stated that it would not adopt the concept of carry-back credits, since it would delay the installation of automatic restraints and the safety benefits they provide and would also undermine the agency's plan for the prompt and orderly introduction of those restraint systems. NHTSA recognizes that the Rolls-Royce carry-back would cover a limited period of time, while the prior carry-back plans sought by some manufacturers would have covered the entire phase-in period. However, NHTSA believes that the reasons given for the agency's prior rejection of those plans are still valid. Any carry-back plan will result in the delay of safety benefits and also will delay the prompt and orderly introduction of automatic restraints. The agency is concerned that if the initial phase-in period were extended, it could prompt wide-spread delays in the introduction of automatic restraints, since manufacturers other than Rolls-Royce might wait until the latter portion of the requested extended phase-in period to install automatic restraints. For those reasons, NHTSA is denying Rolls-Royce's petition to extend the initial stage of the phase-in period.

Petition for Temporary Exemption

The Insurance Institute for Highway Safety (IIHS) has recently written the agency urging that instead of "amending the standard at this late date to accommodate the needs of a manufacturer that markets less than 1,000 vehicles each year in the United States," the agency should treat Rolls-Royce's petition as one for a temporary exemption. The IIHS said that the delay sought by Rolls-Royce would be "inappropriate and unnecessary" and urged NHTSA to reject Rolls-Royce's request.

The decision whether to seek a temporary exemption is one left to choice of the manufacturer and not to the agency. Under section 123 of the National Traffic and Motor Vehicle Safety Act, NHTSA does not have authority to grant a temporary exemption in the absence of an application from a manufacturer. If Rolls-Royce should decide to file for those a temporary exemption, the agency will expeditiously consider that petition.

Issued on December 9, 1986.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 86-28028 Filed 12-12-86; 2:24 pm]

BILLING CODE 4910-59-M

Notices

Federal Register
Vol. 51, No. 240
Monday, December 15, 1986

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Cooperative State Research Service

Special Research Grants Program for Fiscal Year 1987; Solicitation of Applications; Correction

AGENCY: Cooperative State Research Service, Agriculture.

ACTION: Notice of correction of postmark date for proposals.

SUMMARY: This notice corrects the postmark date for proposals previously published in the **Federal Register** November 21, 1986 (51 FR 42170). To be considered for funding during Fiscal Year 1987, proposals must be postmarked no later than February 16, 1987 for both the Animal Health Research and the Aquaculture Research Program Areas.

Dated: December 8, 1986.

John Patrick Jordan,

Administrator, Cooperative State Research Service.

[FR Doc. 86-28017 Filed 12-12-86; 8:45 am]

BILLING CODE 3410-22-M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census
Title: 1987 Census of Transportation—Truck Inventory and Use Survey
Form Number: Agency—TC-9501, TC-9502; OMB—N/A
Type of Request: New collection
Burden: 140,000 respondents; 46,200 reporting hours
Needs and Uses: This survey provides data on the physical and operational characteristics of the nation's truck population. These data are used by government agencies, major manufacturers of trucks and their component parts, and consulting firms to establish policy for the trucking industry and to predict market trends. Respondents to this survey will consist of registered truck owners and leasees.
Affected Public: Individuals or households; farms; businesses or other for profit institutions, non-profit institutions; small businesses or organizations
Frequency: One time
Respondent's Obligation: Mandatory
OMB Desk Officer: Timothy Sprehe, 395-4814.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Timothy Sprehe, OMB Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

Dated: December 10, 1986.

Ed Michals,

Departmental Clearance Officer, Information Management Division, Office of Information Resources Management.

[FR Doc. 86-28062 Filed 12-12-86; 8:45 am]

BILLING CODE 3510-07-M

International Trade Administration

[C-301-003]

Roses and Other Cut Flowers From Colombia; Final Results of Countervailing Duty Administrative Review and Revised Suspension Agreement

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of final results of countervailing duty administrative review and revised suspension agreement.

SUMMARY: On October 21, 1986, the Department of Commerce published the preliminary results of its countervailing duty administrative review and proposed revised suspension agreement on roses and other cut flowers from Colombia. The review covers the period January 18, 1983 through June 30, 1983 and nine programs.

We gave interested parties an opportunity to comment on the preliminary results and proposed revised suspension agreement. After reviewing all of the comments received, we have determined that Colombian cut flower exporters have complied with the terms of the suspension agreement. We have also revised the suspension agreement to include programs found countervailable or potentially countervailable since the original agreement.

EFFECTIVE DATE: December 15, 1986.

FOR FURTHER INFORMATION CONTACT: Bernard Carreau or Susan Silver, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On October 21, 1986, the Department of Commerce ("the Department") published in the **Federal Register** (51 FR 37321) the preliminary results of its countervailing duty administrative review and proposed revised suspension agreement on roses and other cut flowers from Colombia (48 FR 2158, January 18, 1983). We have now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

Imports covered by the review are shipments of Colombian roses and other fresh cut flowers (excluding miniature carnations), and bouquets, wreaths, sprays, or similar articles made from such flowers or other fresh plant parts. Roses are currently classifiable under item 192.1800, and other fresh cut flowers (excluding miniature carnations) under item 192.2100 of the Tariff Schedules of the United States Annotated.

The review covers the period January 18, 1983 through June 30, 1983 and nine programs: (1) CAT/CERT; (2) air freight reductions; (3) Resolution 59; (4) Decree 2366; (5) Resolution 42; (6) FFA; (7) FFI; (8) FCF; and (9) FONADE.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. At the request of three domestic interested parties, Roses, Inc., the Floral Trade Council, and the California Trade Council ("the domestic parties"), we held a public hearing on November 7, 1986.

Comment 1: The domestic parties contend that the Colombian flower exporters have circumvented the suspension agreement. The Colombian exporters agreed in the suspension agreement not to receive benefits under the Tax Reimbursement Certificate Program ("CAT") or any additional programs found to be countervailable in this or any subsequent proceeding. However, the exporters have continued to receive countervailable benefits from a program that replaced the CAT, the Tax Rebate Certificate ("CERT"). The CERT program is not related to the rebate of indirect taxes. The CERT rebate rates of one percent (later revised to zero) for exports to the United States and of 25 percent (later revised to 20 percent) for exports to all other countries clearly indicate that the exporters are circumventing the agreement. The effect of these disparate CERT rates is to provide the exporters with approximately the same benefit as they had been getting from the single five-percent CAT rebate on all exports before signing the suspension agreement. There has been no change in the net receipt of funds from the same program, which is now under a different name. The Department should therefore cancel the suspension agreement and issue a countervailing duty order. To determine the benefit, the Department should allocate all CERT benefits received by flower exporters over total exports to all markets. The unique circumstances of this case warrant consideration of total exports rather than just exports to the United States.

Department's Position: We disagree. We verified that, in accordance with the terms of the suspension agreement, the exporters received no CAT payments on exports to the United States during the period of review. Although the Colombian government later changed the CAT program to the CERT program and changed the rate of rebate on flower exports depending on the country of destination, we received certification from the Banco de la Republica, Colombia's central bank, on August 15, 1984, that it withheld CERT payments to cut flower exporters on shipments to the United States and Puerto Rico. In light of the verfication and the certification, both of which are provided for in the suspension agreement, we have no reason to believe that flower exporters have begun to receive CERT payments on exports to the United States.

The higher CERT rebates on exports to countries other than the United States encourage the export of flowers to those countries and do not affect shipments to the United States. In fact, the dual rates provide a potential disincentive to export to the United States.

Comment 2: The domestic parties contend that the exporters have been receiving preferential financing administered by the Export Promotion Fund (PROEXPO), an agency of the Colombian government, in violation of the agreement. The Department found Resolution 59 and Decree 2366 loans countervailable in the suspension of countervailing duty investigation on certain textile mill products and apparel from Colombia (50 FR 9863, March 12, 1985) ("the textiles suspension of investigation"). The Department has preliminarily found in this review that the post-shipment loans under Resolution 42 are countervailable. Because these programs existed before the effective date of the agreement and because the exporters have been using them since signing the agreement, the Department should cancel the suspension agreement and issue a countervailing duty order.

Department's Position: We did not find short-term loans under Resolution 59 or long-term loans under Decree 2366 to be countervailable until March 1985, over two years after the signing of the suspension agreement. We find post-shipment financing under Resolution 42 countervailable only with the issuance of these final results. In accordance with § 355.32(b) of the Commerce Regulations, we have renegotiated the agreement to include these loan programs. We believe that the renegotiation process is best accomplished within the context of a section 751 administrative review. The delay in completion of this review should not deprive the Colombian exporters of an opportunity to renegotiate the agreement.

Comment 3: The domestic parties argue that the suspension agreement should be canceled immediately because, in addition to the flaws cited above, the agreement is not in the public interest and it is impossible to monitor. The legal requirements for a suspension agreement are explicit and strict. Congress intended that suspension agreements be used only in carefully controlled circumstances, as an unusual remedy for subsidies. The effect of the agreement should be the same as that of imposing actual duties. From its inception, this agreement has not covered all subsidies received by the exporters. The Colombian government and Asocolflores, a trade association of Colombian flower growers, have not been forthcoming in providing information vital to the effective monitoring of the agreement. For example, at verification, after persistent questioning by Department officials, an official of Acocolflores admitted that the Banco de la Republica was deducting 7.5 percent of the CAT earnings on non-U.S. exports for a special fund purportedly for technical research in the cut flower industry. Such information should have been reported to the Department immediately.

Department's Position: The suspension agreement covered all programs that we considered countervailable at the time of its signing. We verified that the exporters complied with the terms of the agreement during the period of review. The Colombian exporters could not have predicted at the time of the original agreement what programs the Department would subsequently find countervailable. We have negotiated a revised agreement specifically to include those programs found countervailable since then.

We believe in a rigorous execution of the terms of a suspension agreement, but not without due process. Section 355.32(b) of the Commerce Regulations provide for the possibility of renegotiating suspension agreements, except in the event of intentional violations, which we do not find in this case.

We found no evidence that the Colombian government or Asocolflores had instituted a program for technical research during the period of review. We will examine this isuse further in the next administrative review of the agreement.

Contrary to the domestic parties' assertions, we believe that the agreement has been effectively monitored. The exporters and the Banco de la Republica have provided monitoring reports in accordance with the terms of the agreement. We also believe that the revised agreement can be monitored effectively, that it completely eliminates any countervailable benefits, and that it is in the public interest.

Comment 4: The domestic parties contend that interest rates available from the Fund for Agricultural Financing (FFA) should not form the basis of a commercial benchmark for loans provided by PROEXPO. FFA is a government preferential financing

program set up to pursue certain policy objectives that are not in accordance with commercial considerations. The Department should use a national average commercial rate as a benchmark. Furthermore, it is inappropriate for the Department to change from the benchmark it determined in the textiles suspension of investigation.

Department's Position: We disagree. We have found that the predominant alternative sources of financing used by agricultural enterprises in Colombia are the FFA and the Agrarian Fund. The amount of pure commercial financing raised by the agricultural sector in Colombia is so small as to be insignificant. It is inappropriate to conclude that this small amount would accurately represent the actual "commercial" environment facing an agricultural firm absent the preferential financing. In an economy such as Colombia's where the government controls a large part of the agricultural credit market, we must consider non-targeted government funds as a legitimate part of the commercial environment facing any agricultural firm. Even the benchmark that we used in the textiles suspension of investigation was a weighted average of commercial lending rates and government-mandated rates because the government also controls a significant portion of the credit market for other sectors. However, that weighted-average benchmark would be inappropriate in this case because it includes sources that are either not available or not used in large measure by agricultural enterprises. *See* also, final affirmative countervailing duty determination on live swine and fresh, chilled and frozen pork products from Canada (50 FR 25097, June 17, 1985).

Comment 5: The Colombian exporters note that the interest rate on Resolution 59 loans was changed to 22 percent on March 5, 1985. Further, the Department did not use the most recent information available in determining the average interest rates for the FFA and the Agrarian Fund. The average rate of the two should be 22.5 percent, as the Department found in the preliminary affirmative countervailing duty determination on miniature carnations from Colombia (51 FR 37934, October 27, 1986). Finally, long-term interest rates on FFA loans range from 15 to 21 percent. The Department should use the average of these rates rather than the highest rate.

Department's Position: We agree that the current interest rate on Resolution 59 loans is 22 percent and the current average of the FFA and the Caja Agraria is 22.5 percent. Our information on current long-term FFA loans however is that the interest rate is a flat 21 percent.

Comment 6: The Colombian exporters argue that the requirement that all outstanding loans be refinanced is excessively onerous since the actual interest rate differentials, as suggested in Comment 5, are very small and would probably lead to *de minimis* benefts.

Department's Position: We disagree. Section 704 ofthe Tariff Act requires that a suspension agreement completely eliminate the net subsidy on the merchandise exported to the United States. Furthermore, we have no information on the current level of PROEXPO financing used by the exporters and no way to calculate the current benefit.

Final Results of Review

After considering all of the comments received, we determine that the signatories to the suspension agreement have complied with the terms of the suspension agreement during the review period. The agreement can remain in force only as long as shipments covered by it account for at least 85 percent of exports of such merchandise to the United States. Our information indicates that the signatories comprised over 93 percent of exports of the merchandise to the United States during the period of review.

Because the signatories have used two programs that we have found countervailable in another Colombian case, we revised the suspension agreement. The revised suspension agreement also includes programs investigated in the textiles suspension of investigation. These programs are: (1) Resolution 14, which provides long-term financing at preferential rates for capital investment; (2) duty and tax exemptions for capital equipment under the Plan Vallejo; (3) Export Credit Insurance, which provides guarantees on loans at preferential rates, and (4) countertrade, which permits companies to engage in barter arrangements if such trade creates new markets.

This administrative review, revised suspension agreement, and notice are in accordance with sections 704 and 751(a)(1) of the Tariff Act (19 U.S.C. 1671c and 1675(a)(1)) and §§ 355.10, 355.31, and 355.32(b) of the Commerce Regulations (19 CFR 355.10, 355.31, and 355.32(b)).

Dated: December 3, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary, Import Administration.

Revised Suspension Agreement

Pursuant to the provisions of section 704 of the Tariff Act of 1930 ("the Act") and § 355.31 of the Department of Commerce Regulations, the Department of Commerce ("the Department") and the producers and exporters of roses and other cut flowers (excluding miniature carnations) in Colombia listed in Appendix I hereto (hereinafter "the producers and exporters"), enter into the following Revised Suspension Agreement ("the Agreement"). In consideration of this Agreement, the Central Bank of Colombia, PROEXPO and any other relevant administering authorities agree voluntarily to take such steps necessary to ensure that the renunciation of benefits by the producers and exporters is implemented and monitored, and that the Department is informed of any other companies that are exporting, or begin exporting to the United States, roses and other cut flowers (excluding miniature carnations) as defined by paragraph I below. On the basis of the foregoing, the Department revises the suspension agreement that became effective on January 18, 1983 (48 FR 2158) with respect to roses and other cut flowers (excluding miniature carnations) from Colombia to include additional programs and additional exporters in accordance with the terms and conditions set forth below.

I. Scope of the Agreement

The Agreement applies to roses and other cut flowers from Colombia ("the subject products"). The subject products cover roses and other cut flowers (excluding miniature carnations), and bouquets, wreaths, sprays, or similar articles made from such flowers or other fresh plant parts as currently provided for in items 192.1800 and 192.2100 of the Tariff Schedules of the United States Annotated.

II. Basis of the Agreement

The producers and exporters listed in Appendix I, accounting for more than eighty-five (85) percent of the total exports of roses and other cut flowers (excluding miniature carnations) from Colombia to the United States, agree to the following:

a. The producers and exporters will not apply for, or receive, tax certificates or other rebates, remissions or exemptions under the Tax Reimbursement Certificate program (CAT/CERT) or any other provision of

law that constitute, as determined by the Department, an overrebate of indirect taxes on shipments of the subject products exported, directly or indirectly, from Colombia to the United States.

b. The producers and exporters will not apply for, or receive, any short-term export financing provided by the Export Promotion Fund, PROEXPO (*e.g.*, Resolution 59 and Resolution 42 loans) and under any special government credit line for cut flowers on or after the effective date of the Agreement, other than those offered at non-preferential terms and at or above the most recent short-term benchmark interest rate determined by the Department in this proceeding. By the thirtieth day from the effective date of this Agreement, the producers and exporters shall repay, or begin negotiating the refinancing of, any such financing outstanding as of the effective date of this Agreement on non-preferential terms and at or above the most recent short-term benchmark interest rate determined by the Department in this proceeding. The repayment or refinancing shall be completed no later than ninety days after the effective date of this Agreement.

c. The producers and exporters will not apply for, or receive, any long-term financing provided by the Export Promotion Fund, PROEXPO (*e.g.*, Resolution 2366 loans and Resolution 14 loans) and under any special government credit line for cut flowers, other than those offered on non-preferential terms at or above the most recent long-term benchmark interest rate determined by the Department in this proceeding. Any such financing outstanding as of the effective date of this Agreement shall be repaid, or refinanced, on non-preferential terms and at or above the most recent long-term benchmark interest rate determined by the Department, by the original due date of the loan, or by the sixtieth day from the effective date of this Agreement, whichever comes first. Any such repayment must be consistent with Colombian bankruptcy laws and procedures.

d. The producers and exporters will not apply for, or receive, any benefits from duty and tax exemptions for capital equipment under the Plan Vallejo.

e. The producers and exporters shall notify the Department in writing prior to applying for approval for any countertrade transaction, and prior to applying for any benefits from the Export Credit Insurance program with respect to exports of the subject products exported, directly or indirectly, to the United States.

f. The producrs and exporters will not apply for, or receive, any bounties or grants on shipments of the subject products exported, directly or indirectly, from Colombia to the United States which are countervailable under the Act. Bounties or grants on exports of the subject products to the United States include any which have been found or are likely to be found countervailable in any investigation, or review under section 751 of the Act, involving any product from Colombia, including bounties or grants which the Department determines may apply to other products or exports to other destinations that cannot be segregated as applying solely to such other products or exports.

g. The producers and exporters shall notify the Department in writing at least thirty days prior to applying for or accepting any new benefit which is, or is likely to be, a countervailable bounty or grant on shipments of the subject products exported from Colombia.

h. If any program under which benefits have been received in the past, and which is included in this Agreement, is found not to constitute a bounty or grant under the Act in the final determination or the final results of an administrative review of this Agreement under section 751 of the Act in this proceeding, then the renunciation of the benefits under that program will no longer be required.

III. Monitoring of the Agreement

1. The producers and exporters agree to supply any information and documentation which the Department deems necessary to demonstrate that there is full compliance with the terms of this Agreement.

2. The producers and exporters will notify the Department if they:

a. Transship the subject products through third countries to the United States;

b. Alter their position with respect to any terms of the Agreement; or

c. Apply for, or receive, directly or indirectly, the benefits of the programs described in Section II for the manufacture or export of the subject products exported, directly or indirectly, from Colombia.

3. The Department will request information and may perform verifications periodically pursuant to administrative reviews conducted under section 751 of the Act, in addition to exercising its rights under paragraphs III.1 and 2, above.

4. The producers and exporters agree to permit such verification and data collection as deemed necessary by the Department in order to monitor this Agreement.

5. The producers and exporters agree to notify the Department of the volume and value of exports of the subject products to the United States within 45 days from the end of each calendar quarter.

6. The producers and exporters agree to provide to the Department a periodic certification that they continue to be in compliance with the terms of the Agreement. A certification will be provided within 45 days from the end of each calendar quarter.

IV. General Provisions

1. In entering into this Agreement, the producers and exporters do not admit that any of the programs investigated constitute countervailable benefits within the meaning of the Act or the GATT Subsidies Code.

2. The provisions of section 704(i) shall apply if:

a. The producers and exporters withdraw from this Agreement; or

b. The Department determines that the Agreement is being or has been violated or no longer meets the requirements of section 704 of the Act.

3. If the Department learns of any new producers or exporters to the United States of the subject products, it may attempt to negotiate an agreement with the additional producers or exporters.

4. Additionally, should exporters to the United States by the producers and exporters account for less than 85 percent of the subject products imported, directly or indirectly, into the United States from Colombia, the Department may attempt to negotiate an agreement with addtional producers or exporters or may terminate this Agreement and reopen the investigation under § 355.32 of the Commerce Regulations. If reopened, the investigation will be resumed for all producers and exporters of the subject products as if the affirmative preliminary determination were made on the date that the Department terminates this Agreement.

V. Effective Date

The effective date of this Agreement will be the date of publication of the final results of the current administrative review in the **Federal Register**. The provisions of paragraphs II. a–h apply with respect to exports of

the subject products on or after the effective date. No applications may be made after the effective date of this Agreement for the benefits described in Section II on the subject products exported from Colombia before the effective date.

Signed on this 3rd day of December 1986.

Thomas A. Rothwell, Jr.,

Heron, Burchette, Ruckert, and Rothwell.

I have determined pursuant to section 705(b) of the Act that the provisions of Section II completely eliminate the benefits that the Government of Colombia is providing with respect to roses and other cut flowers (excluding miniature carnations) exported, directly or indirectly, from Colombia to the United States. Furthermore, I have determined that this revised suspension agreement is in the public interest, that the provisions of Section III and the attached undertaking of the Government of Colombia ensure that this Agreement can be monitored effectively, and that this Agreement and attached undertaking meet the requirements of section 704(d) of the Act.

Dated: December 3, 1986.

United States Department of Commerce.

Gilbert B. Kaplan,

Deputy Assistant Secretary, Import Administration.

December 3, 1986.

Colombian Government Trade Bureau, PROEXPO, Suite 810, 1701 Pennsylvania Avenue NW., Washington, DC

Investigation No. C-301-003, Total Number of Pages: 2

This document contains no confidential information.

Mr. Gilbert B. Kaplan,

Deputy Assistant Secretary, Import Administration, U.S. Department of Commerce, Room 3099, 14th and Constitution Avenue NW., Washington, DC 20230

Re: Administrative Review of Suspension Agreement on Roses and Other Cut Flowers from Colombia

Dear Mr. Kaplan: In consideration of the Suspension Agreement between the producers and exporters of roses and other cut flowers in Colombia and the Department of Commerce, the Government of Colombia voluntarily agrees to take such steps as are necessary to ensure that the renunciation of benefits by the producers and exporters in this Agreement is effectively implemented and monitored, including:

1. Notifying the relevant authorities of the Government of Colombia of the terms of this Agreement in order to ensure action by those agencies consistent with the terms of this paragraph;

2. Supplying any information and documentation that the Department deems necessary to demonstrate full compliance by the producers and exporters with the terms of this Agreement;

3. Permitting such verification and data collection as deemed necessary by the Department in order to monitor this Agreement;

4. Notifying the Department if it becomes aware that a producer or exporter is transshipping the subject products through third countries to the United States;

5.Notifying the Department if it alters its position with respect to any of the terms of this Agreement;

6. Notifying the Department if it changes the tax rebate rate under the CERT program, indirect tax rates, or import duty rates for the subject products;

7. Notifying the Department if a producer or exporter of the subject products applies for, or receives, directly or indirectly, the benefits of the programs described in paragraph II. a–f for the manufacture or export of the subject products exported from Colombia;

8. Notifying the Department if the producers or exporters become eligible for, apply for, or receive any new or substitute benefits on the subject products exported from Colombia in contravention of paragraph II.g of the Agreement; and

9. Notifying the Department of any new firms that it learns are exporting the subject products to the United States.

The Central Bank, PROEXPO, and any other administering authority also voluntarily agree to provide to the Department within 45 days of the end of each calendar quarter all relevant information deemed by the Department to be necessary to maintain this agreement. The information shall include, but not be limited to:

1. A certification (provided after consultation with each agency responsible for administering the programs in Section II) that the producers and exporters have not applied for or received any benefits described in Section II on shipments of the subject products exported from Colombia;

2. A certification that the producers and exporters continue to account for at least 85 percent of total exports of roses and other cut flowers exported, directly or indirectly, from Colombia to the United States; and

3. A certification that the producers and exporters continue to be in full compliance with the Agreement.

The Central Bank, PROEXPO and any other administering authority's voluntary undertaking is not an admission that any of the programs investigated or included in the Revised Suspension Agreement constitute countervailable benefits under the Act or the Subsidies Code.

The Central Bank, PROEXPO and any other administering authority recognize that this undertaking is essential to the continuation of the Agreement.

Sincerely yours,

Andres Lloreda,

Commercial Attache.

[FR Doc. 86-27861 Filed 12-12-86; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

[Docket No. 61110-6210]

Foreign Fishing; Department of Commerce Foreign Allocations Policy Recommendations

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice and general statement of policy.

SUMMARY: NOAA publishes the procedures and policies for the evaluation of the performance of foreign fishing nations with reference to the allocations criteria of the Magnuson Fishery Conservation and Management Act (Magnuson Act). The policies and procedures will be used by the Secretary in making his recommendations to the Secretary of State for the initial release of allocations in 1987 and for future allocations recommendations. Public comments are invited.

FOR FURTHER INFORMATION CONTACT: Stephen P. Freese, International Fisheries Development and Services Division, F/M32, National Marine Fisheries Service, 1825 Connecticut Avenue NW., Washington, DC 20235, (202) 673-5300.

SUPPLEMENTARY INFORMATION: The Magnuson Act, enacted in 1976, has the principal purposes of conserving and managing fishery resources off the coasts of the United States and the anadromous species and Continental Shelf resources of the United States and of encouraging the development of the United States fishing industry. The U.S. objective is domestic utilization of all U.S. fishery resources and the phaseout of foreign fishing.

The regional fishery management councils, established by the Magnuson Act, are required to prepare and revise fishery management plans (FMPs) for fisheries that require conservation and management within their regional jurisdiction. Each FMP must meet the seven National Standards specified in the Act. For example, the first national standard requires that conservation and management measures prevent overfishing while achieving, on a continuous basis, the optimum yield from each fishery for the U.S. fishing industry.

Each FMP must, among other things, specify for the fishery: the optimum yield (OY), which is derived from an estimate of maximum sustainable yield (MSY) modified by economic, social, and ecological factors; and an estimate of the expected domestic annual harvest

(DAH). the DAH includes the volume of optimum yield expected to be used for domestic annual processing (DAP) and the portion of the U.S. harvest which may be available for joint venture processing (JVP). The amount of fish which is surplus to U.S. requirements, i.e., the difference between OY and DAH, is designated as the total allowable level of foreign fishing (TALFF). All or some portions of TALFF may be made available for foreign fishing to nations which have entered into a governing international fishery agreement (GIFA) with the United States. In all cases, domestic fishermen get the first opportunity to harvest the OY and domestic processors the first opportunity to process the OY; any remainder may be allocated to foreign nations.

Each FMP specifies the management measures by which the fishery will be regulated to achieve the general objectives and the short-term fishing levels established in the FMP. To allow for uncertainties in the domestic fishing catch, some FMPs establish a certain amount of the OY as a reserve to be allocated in mid-season to DAP, JVP, or TALFF. Some FMPs allow the periodic reassessment of domestic needs to respecify DAP, JVP, or TALFF as appropriate.

When a TALFF has been determined, it may be allocated among foreign nations in accordance with the procedures and criteria established in section 201 of the Magnuson Act. The original criteria have been amended twice. In 1980, new criteria were added by the Congress to reflect the objective of total Americanization of all sectors of the U.S. fishing industry. In 1983, this objective was clarified further by emphasizing that foreign purchases of TALFF-species fishery products from U.S. fishermen and processors would be a factor in determining allocations of fish from TALFF.

The objective in allocating TALFF to foreign nations is to promote the development of all sectors of the U.S. fishing industry. At present, the Magnuson Act specifically states that allocations to a foreign nation shall be based on:

(1) Whether, and to what extent, such nation imposes tariff barriers or non-tariff barriers on the importation, or otherwise restricts the market access of both U.S. fish and fishery products, particularly fish and fishery products for which the foreign nation has requested an allocation;

(2) Whether, and to what extent, such nation is cooperating with the United States in both the advancement of existing and new opportunities for fisheries exports from the United States through the purchase of fishery products from U.S. processors, and the advancement of fisheries trade through the purchase of fish and fishery products from U.S. fishermen, particularly fish and fishery products for which the foreign nation has requested an allocation;

(3) Whether, and to what extent such nation and the fishing fleets of such nation have cooperated with the United States in the enforcement of U.S. fishing regulations;

(4) Whether, and to what extent, such nation requires the fish harvested from the fishery conservation zone for its domestic consumption;

(5) Whether, and to what extent such nation otherwise contributes to, or fosters the growth of, a sound and economic U.S. fishing industry, including minimizing gear conflicts with fishing operations of U.S. fishermen and transferring harvesting or processing technology which will benefit the U.S. fishing industry;

(6) Whether, and to what extent, the fishing vessels of such nation have traditionally engaged in fishing such fishery;

(7) Whether, and to what extent, such nation is cooperating with the United States in, and making substantial contributions to, fishery research and the identification of fishery resources; and

(8) Such other matters as the Secretary of State, in cooperating with the Secretary of Commerce deems appropriate.

Department of Commerce Procedures and General Policy

Section 201 of the Magnuson Act also outlines the procedures to be used by the Secretary of State, in cooperation with the Secretary, in determining the allocations from the TALFF to the foreign fishing nations that have requested allocations. On behalf of the Secretary, NOAA/NMFS makes recommendations to the Department of State (DOS) for releases of fishing allocations to foreign nations. The initial aggregate allocation is a projection of total allocations to a foreign nation for the entire year, based on its past performance under the allocations criteria of the Magnuson Act. Initial releases are recommended in advance of the start of each fishing season and are based on each foreign nation's initial aggregate allocation. As required by the Magnuson Act, the initial NOAA/NMFS recommendations for the fishing year are 50 percent or less of the initial aggregates. Recommendations for further releases are made to the DOS throughout the year. The DOS reviews the NOAA/NMFS recommendations and makes final allocations decisions. The appropriate U.S. embassies are then requested to inform their host governments of these final decisions. Foreign governments are requested to inform the DOS if they accept the allocations.

Prior to development of the initial aggregate and initial release recommendations, NOAA/NMFS conducts industry surveys and collects trade and other information to serve as the basis for evaluating foreign country performances. NOAA/NMFS takes into account only past performance by a foreign nation or industry in developing its country evaluations. These performance evaluations determine the initial aggregates for and the recommended initial releases to each country. The evaluations are updated prior to each subsequent release throughout the year and these evaluations accompany all recommendations made to the DOS.

NOAA/NMFS recommendations also consider available regional fishery management council analyses, policies, and recommendations as well as the requirements and objectives of the appropriate FMPs. Official U.S. policies, and international treaties or agreements also temper the NOAA/NMFS foreign performance evaluations and recommendations.

In the fall of each year, NOAA/NMFS also conducts a similar evaluation with the purpose of reviewing foreign performance according to the foreign fee criteria of the Magnuson Act. The Magnuson Act requires that any foreign nation receiving an allocation of fish must pay fees at the higher of two levels during the next fiscal year if the Secretary finds that a foreign nation—

(i) Is harvesting anadromous species of United States origin at a level that is unacceptable to the Secretary; or

(ii) Is failing to take sufficient action to benefit the conservation and development of the U.S. fisheries.

Although the fee criteria are more general than the allocations criteria, the fee review encompasses many of the same considerations. Therefore, the review of foreign performance under the allocations criteria and the specific allocations policy stated below may also bear on the fees a country must pay for allocated fish. Under 5 U.S.C. 553(b)(A), this general statement of policy does not require prior notice or opportunity for public comment.

Department of Commerce Specific Allocations Policy Regarding Allocations Recommendations

Foreign nations can undertake several specific activities to affect the development of the U.S. fishing industry. The NOAA/NMFS will review all such activities, positive and negative, before making its allocations recommendations for fisheries in which a TALFF exists. Below are specific indications of how the various activities undertaken by a foreign nation will be viewed and balanced.

(1) The greatest weight is given to efforts by foreign nations to assist the U.S. industry in processing and marketing products derived from TALFF species. Efforts in this regard include, but are not limited to:

(a) The import of U.S. processed TALFF species product; and

(b) Equity joint ventures, that expand U.S. participation in processing and marketing; (equity joint ventures are agreements involving investments by both parties which include the U.S. partner in the processing and marketing of the fish and fish products).

(2) A high percentage of domestic consumption of TALFF allocations is positively viewed. The export of fully-processed TALFF species products to the United States or to foreign markets in competition with U.S. products will be noted.

(3) Importation of U.S. fishery products, other than those from TALFF species, by foreign nations will be noted.

(4) Over-the-side purchases of TALFF species in joint ventures involving American fishermen and foreign companies will be viewed as a contribution to development in fisheries which are domestically underutilized or unutilized, i.e., those fisheries where the level of domestic annual processing is low or non-existent.

(5) Existence of tariff and and non-tariff barriers will be noted.

(6) Compliance with U.S. regulations including conditions attached to vessel permit authorizations will be taken into serious account. Allocation recommendations will be negatively impacted only by failure to comply. Total compliance is expected.

(7) Contributions by foreign nations to the research needs of the United States ae a positive factor in determining allocation recommendations.

(8) Other matters, such as whaling and salmon interception policies of foreign nations and compliance with requirements concerning payments of foreign fishing and observer fees, may be taken into account as appropriate.

(9) The historical presence of a foreign nation in a fishery and historical trends are noted, but they are not significant factors in allocation recommendations.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: December 9, 1986.

Carmen J. Blondin,

Deputy Assistant Administrator For Fisheries Resources Management, National Marine Fisheries Service.

[FR Doc. 86-28026 Filed 12-10-86; 1:32 pm]

BILLING CODE 3510-22-M

Coastal Zone Management; Federal Consistency Appeal by Exxon From an Objection by the California Coastal Commission

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Public comment period extended.

The public comment period in the Exxon Santa Ynez appeal filed under the Coastal Zone Management Act has been extended to January 2, 1987. This extension coincides with the new filing date granted the California Coastal Commission for its reply brief to Exxon's supporting information. Public comments were invited October 31, 1986, on the issues remaining to be decided on appeal. See 51 FR 39778.

FOR FURTHER INFORMATION CONTACT: L. Pittman at (202) 673-5200.

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Administration)

Dated: December 8, 1986.

Daniel W. McGovern,

General Counsel, National Oceanic and Atmospheric Administration.

[FR Doc. 86-27973 Filed 12-12-86; 8:45 am]

BILLING CODE 3510-08-M

COMMISSION OF FINE ARTS

Notice of Meeting

The Commission of Fine Arts will next meet in open session on Thursday, January 15, 1987 at 10:00 a.m. in the Commission's offices at 708 Jackson Place, NW., Washington, DC 20006 to discuss various projects affecting the appearance of Washington, DC including buildings, memorials, parks, etc.; also matters of design referred by other agencies of the government. Handicapped persons should call the offices (566-1066) for details concerning access to meetings.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Mr. Charles Atherton, Secretary, Commission of Fine Arts, at the above address or call the above number.

Dated in Washington, DC December 4, 1986.

Charles H. Atherton,

Secretary.

[FR Doc. 86-38013 Filed 12-12-86; 8:45 am]

BILLING CODE 6330-01-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting Import Limits for Certain Cotton Textile Products Produced or Manufactured in Brazil

December 9, 1986.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on December 16, 1986. For further information contact Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerece, (202) 377-4212. For information on the quota status of these limits, please refer to the Quota Status reports which are posted on the bulletin boards of each Customs port. For information on embargoes and quota re-openings, please call (202) 377-3715.

Background

The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 7 and 29, 1986 between the Governments of the United States and the Federative Republic of Brazil provides, among other things, for designated percentage increases in certain categories (swing) and for the borrowing of yardage from the succeeding year's level with the amount used being deducted from the level in the succeeding year (carryforward).

An increase for swing and carryforward is being applied to the restraint limits previously established for cotton textiles and cotton textile products, in Categories 300/301 and 313, produced or manufactured in Brazil and exported during the agreement year which began on April 1, 1986 and extends through March 31, 1987, raising them to 9,449,563 pounds and 33,816,000 square yards, respectively. The new restraint limit for Category 313 includes a deduction of 201,269 square yards

equivalent for additional carryforward used in the previous agreement year.

In the letter published below, the chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to adjust the restraint limits for these categories.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386) and in Statistical Headnote 5, Schedule 3 of the TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED (1986).

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 9, 1986.

Commissioner of Customs,
Department of the Treasury, Washington DC 20229

Dear Commissioner: This directive further amends, but does not cancel, the directive issued to you on March 18, 1986 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in Brazil and exported during the twelve-month period which began on April 1, 1986 and extends through March 31, 1987.[1]

Effective on December 16, 1986, the directive of March 18, 1986 is hereby further amended to include the following adjusted restraint limits:

Category	Adjusted limit [1]
300/301	9,449,563 pounds.
313	33,816,000 square yards.

[1] The limits have not been adjusted to account for any imports exported after March 31, 1986.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

[1] The agreement provides, in part, that: (1) specific limits may be exceeded during the agreement year by designated percentages; (2) specific limits may be adjusted for carryover and carryforward; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

Sincerely,

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-28067 Filed 12-12-86; 8:45 am]

BILLING CODE 3510-DR-M

Announcing Import Restraint Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in the People's Republic of China Effective on January 1, 1986; Correction.

December 9, 1986.

On December 30, 1985 a notice was published in the **Federal Register** (50 FR 53182), which announced the 1986 import control limits for certain cotton, wool and man-made fiber textile products produced or manufactured in China. The TSUA numbers covered by the limit for lightweight polyester/rayon fabric in part of Category 613 should have been those listed below in both the notice document and in footnote 3 of the letter to the Commissioner of Customs which followed that notice:

T.S.U.S.A. numbers 338.5039, 338.5042, 338.5043, 338.5044, 338.5047, 338.5048, 338.5050, 338.5053, 338.5054, 338.5055, 338.5058, 338.5059, 338.5060, 338.5063, 338.5064, 338.5067, 338.5068, 338.5071, 338.5074, 338.5078, 338.5083, 338.5086, 338.5091, 338.5094 and 338.5097.

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-28066 Filed 12-12-86; 8:45 am]

BILLING CODE 3510-DR-M

Announcing Import Limits for Certain Cotton and Man-Made Fiber Apparel Products Produced or Manufactured in Jamaica; Correction

December 9, 1986.

On November 21, 1986 a letter dated November 17, 1986 to the Commissioner of Customs was published in the **Federal Register** (51 FR 42128) announcing import limits for certain cotton and man-made fiber apparel products, under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 27, 1986 between the Governments of the United States and Jamaica. The TSUSA numbers shown for Category 340/640 should be corrected to read as follows:

TSUSA numbers 381.0522, 381.5500, 381.6510, 381.5625, 381.5637, 381.5660, 381.3132, 381.3142, 381.3152, 381.9535, 381.9547, and 381.9550.

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-28068 Filed 12-12-86; 8:45 am]

BILLING CODE 3510-DR-M

Adjustment of Import Restraint Limits for Certain Cotton, Wool and Mad-Made Fiber Textile Products Produced or Manufactured in Taiwan; Correction

December 9, 1986.

In the table of the letter to the Commissioner of Customs dated October 30, 1986 (51 FR 40060), the import restraint limit for Category 659-I should be corrected to read 3,858,508 pounds instead of 3,787,710 pounds.

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-28069 Filed 12-12-86; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Public Information Collection Requirement Submitted to OMB for Review

SUMMARY: The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of submission; (2) Title of Information Collection and Form Number, if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

Extension

Conscientious Objector Questionnaire; DISCO Form 3

The Defense Investigative Service (DIS) requests that each individual who is cleared or who is in the process of being cleared and who has indicated an unwillingness to work on classified work verify this objection by completing the Conscientious Objector

Questionnaire. Completion of this form serves not only as verification of this objection, but serves as a basis for further determination of continued access to classified information.

Responses 120
Burden Hours 30

ADDRESSES: Comments are to be forwarded to Mr. Edward Springer, Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503 and Mr. Daniel J. Vitiello, DoD Clearance Officer, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202–4302, telephone number (202) 746–0933.

SUPPLEMENTARY INFORMATION: A copy of the information collection proposal may be obtained from Ms. Caryl L. Clubb, DIS, Industrial Security Directorate, Clearances and International Programs Division, 1900 Half Street SW., Washington, DC 20324–1700, telephone (202) 475–0906.

Linda M. Lawson,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

December 9, 1986.

[FR Doc. 86–28071 Filed 12–12–86; 8:45 am]

BILLING CODE 3810–01–M

Wage Committee; Closed Meetings

Pursuant to the provisions of section 10 of Pub. L. 92–463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, January 6, 1987; Tuesday, January 13, 1987; Tuesday, January 20, 1987; and Tuesday, January 27, 1987; at 10:00 a.m. in Room 1E801, The Pentagon, Washington, DC.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Force Management and Personnel) concerning all matters involved in the development and authorization of wage schedules for federal prevailing rate employees pursuant to Pub. L. 92–392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 92–463, meetings may be closed to the public when they are "concerned with matters listed in 5 U.S.C. 552b." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 U.S.C. 552b.(c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b.(c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b.(c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b(c)(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention.

Additional information concerning this meeting may be obtained by writing the Chairman, Department of Defense Wage Committee, Room 3D264, The Pentagon, Washington, DC 20301.

Linda M. Lawson,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

December 10, 1986.

[FR Doc. 86–28065 Filed 12–12–86; 8:45 am]

BILLING CODE 3810–01–M

Department of the Navy

National Environmental Policy Act Final Record of Decision To Proceed Modification To St. Marys River Entrance Channel Dredging Program, Fleet Ballastic Missile Submarine Support Base, Kings Bay, GA

Pursuant to section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969 and Council on Environmental Quality Regulations (40 CFR Part 1500), the U.S. Navy announces its decision to proceed with a modification to the dredging program for the St. Marys River Entrance Channel, located on the Georgia-Florida State line. The modification will provide an additional 2 to 3 feet of channel depth and a turning basin to reduce operational hazards to Ohio Class (TRIDENT fleet ballistic missile) submarines. The channel construction will generate an estimated 9.7 million cubic yards of dredged materials.

Two alternatives were considered: No Action, and Modifying the Dredging Program. The No Action alternative would limit channel development to the channel described in the Final Environmental Impact Statement of September 1980 which could result in damage to submarines. Consequently, the No Action alternative was not considered a viable alternative. Several channel routes and dredged material disposal locations were considered. The selected channel route was environmentally preferred since it resulted in the least dredged material during construction and maintenance.

The issue of disposal of beach quality sand during construction dredging overshadowed all other concerns related to this project. Various disposal alternatives were considered which included variations in the level of use among three disposal areas; the open ocean, in nearshore waters, and along the beach. The primary alternatives for disposal were (1) to place all materials at the ocean site, (2) to place rock and fines at the ocean site and beach-quality sand at the nearshore site, (3) place rock and fines at the ocean site and all beach-quality sands at the beach site, and (4) the preferred alternative. The preferred disposal alternative would result in an estimated 5.2 million cubic yards of material composed pimarily of rock, clay and silt being deposited in a 4 square mile EPA-approved offshore disposal area, and about 1.4 million cubic yards of beach-quality sand being placed directly on the beach on the north end of Amelia Island. The remaining beach-quality sand, located in open ocean and estimated at 3.1 million cubic yards, is to be placed in a 5.4 square mile nearshore area opposite the middle of Amelia Island in 18–35 feet of water.

The State of Florida requested that the Navy mitigate erosion damage by placing an additional 2.0 million cubic yards of beach-quality sand on the southern beaches of Amelia Island, instead of placing this sand in the mid-island nearshore disposal area. The Navy does not concur with the State of Florida's assessment that the proposed dredging will increase erosion to the southern beaches of Amelia Island. Following thorough review of available hydrologic data and studies of sedimentary processes of the modified inlet, the Navy concluded that no significant changes in the current coastal sediment processes will result from the proposed dredging. However, to provide for continued observation of the coastal environment near the St. Marys inlet, the Navy will participate in a long-term interagency study to monitor any sediment transport changes and the actual effects of dredging on adjacent shorelines.

The recently enacted "Water Resources Development Act of 1986" authorizes the Federal government, upon

request, to place dredged sand on beaches if the State shares 50% of the increased cost of this work. This act provides a basis for agreement between the Navy and the State of Florida on the disposal of the Kings Bay entrance channel sand. Upon request by the State of Florida, the Navy will request Executive approval and Congressional concurrence to fund up to 50% of the cost of placing an additional 2.0 million cubic yards of sand on the southern beaches of Amelia Island. The State's share of this work will be computed as 50% of the additional cost to transport the desired sand directly to the southern beaches in lieu of the planned disposal sites in the mid-island nearshore area.

The entrance channel dredging must proceed without delay. The sand in question is located in open ocean, and must be dredged in good weather during the spring and summer months. Delays could lead to cost increases and will threaten the operational schedules of Trident submarines, with obvious impact on national security. For these reasons, any arrangements with the State of Florida will be structured to avoid affects on the current plan or schedule for channel dredging.

If the required State or Federal funds cannot be made avaialble to meet the current construction schedule, the Navy will not place the addiitonal 2.0 million cubic yards of beach sand on the southern beaches of Amelia Island. The sand will be deposited in the mid-island nearshore disposal area. If required Federal and State funds are obtained later, the Navy would be willing to particiapte with the State of Florida as an equal partner in a follow-on contract to transfer sand from the nearshore disposal area to the southern beaches during a subsequent dredging season. The Navy will also consider placing beach-quality sand from long-term maintenance dredging on the beaches of Amelia Island if the planned interagency study develops actual data linking the proposed project to increased beach erosion.

Dated: December 4, 1986.

Harold L. Stoller,

CDR, JAGC, Federal Register Liaison Officer.

[FR Doc. 86-28010 Filed 12-12-86; 8:45 am]

BILLING CODE 3810-01-M

Naval Research Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app.), notice is hereby given that the Naval Research Advisory Committee Panel on U.S. Marine Corps Command and Control Systems Interoperability will meet on January 8–9, 1987, at Headquarters, U.S. Marine Corps, Washington, DC. The meeting will commence at 9:00 a.m. and terminate at 4:00 p.m. on January 8 and 9, 1987. All sessions of the meeting will be closed to the public.

The purpose of the meeting is to review interservice command and control systems requirements for naval forces in the near and mid-term, and identify future communications and command and control systems architecture features with a view toward improving interoperability. The agenda will include technical briefings and discussions addressing warfighting and interoperability procedures. These briefings and discussions will contain classified information that is specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense and is in fact properly classified pursuant to such Executive order. The classified and nonclassified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting contact: Commander T.C. Fritz, U.S. Navy, Office of Naval Research (Code 100N), 800 North Quincy Street, Arlington, VA 22217-5000, Telephone number (202) 696-4870.

Dated: December 4, 1986.

Harold L. Stoller, Jr.,

Commander, JAGC, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 86-28009 Filed 12-12-86; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Information Technology Services, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before January 14, 1987.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place NW., Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Margaret B. Webster, Department of Education, 400 Maryland Avenue SW., Room 4074, Switzer Building, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Margaret B. Webster (202) 426-7304.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Information Technology Services, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) title; (3) agency form number (if any); (4) frequency of collection; (5) the affected public; (6) reporting burden; and/or (7) recordkeeping burden; and (8) abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Margaret Webster at the address specified above.

Dated: December 10, 1986.

Carlos U. Rice,

Acting Director, Information Technology Services.

Office of Postsecondary Education

Type of Review: Reinstatement
Title: Application for Noncompeting Continuation Grants Under the Special Services for Disadvantaged Students Program
Agency Form Number: ED 1251
Frequency: Annually
Affected Public: State or local governments; Non-profit institutions
Reporting Burden:
Responses: 662

Burden Hours: 6620
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0

Abstract: This application requests information from eligible institutions of higher education and will be utilized by Department of Education Program Officers to make funding decisions and to determine compliance with authorizing legislation and program regulations.

[FR Doc. 86-28052 Filed 12-12-86; 8:45 am]
BILLING CODE 4000-01-M

List of Nationally Recognized Accrediting Agencies and Associations

AGENCY: Department of Education.

ACTION: Notice, revisions to the list of nationally recognized accrediting agencies and associations.

SUMMARY: The Secretary of Education publishes revisions to the Secretary's list of nationally recognized accrediting agencies and associations. The list of revisions concerns two agencies whose scopes of recognition have changed since publication of the complete list and one agency that was removed from the list after discontinuing its accreditation program.

FOR FURTHER INFORMATION CONTACT: Barbara Binker, Agency Evaluation Staff, Higher Education Management Services, Office of Postsecondary Education, 400 Maryland Avenue SW. (Room 3522, ROB-3), U.S. Department of Education, Washington, DC 20202. Telephone (202) 732-3478.

SUPPLEMENTARY INFORMATION: The Higher Education Act and other legislation, including the Veterans' Readjustment Assistance Act and the Public Health Service Act, require the Secretary to publish a list of nationally recognized accrediting agencies that the Secretary has determined to be reliable authorities concerning educational quality. The list includes the scope of recognition of each accrediting body. The Department of Education and other Federal agencies use the list as part of their procedures for determining institutional eligibility for certain programs contained in the legislation authorizing the list.

On September 24, 1986, the Secretary modified the scopes of recognition of two accrediting agencies. Also, the National Association for Practical Nurse Education and Service, Inc., requested that it be removed from the list of recognized accrediting bodies. The request was granted, and removal became effective at the close of business on June 30, 1986. These revisions modify the complete list of recognized accrediting bodies published on October 2, 1985, 50 FR 40213-40217, and corrected on October 16, 1985, 50 FR 41933.

National Institutional and Specialized Accrediting Agencies and Associations

Change of Scope of Recognition

Business

Association of Independent Colleges and Schools, Accrediting Commission (private, postsecondary schools, junior colleges and senior colleges which are predominantly organized to educate students for business careers, including master's degree programs in senior colleges of business)

Other

New York State Board of Regents (registration [accreditation] of collegiate degree-granting programs or curricula offered by institutions of higher education and of credit-bearing certificate and of diploma programs offered by degree-granting institutions of higher education)

Deletion From the list

Nursing

National Association for Practical Nurse Education and Service, Inc. (practical nurse programs).

Dated: December 8, 1986.

C. Ronald Kimberling,

Assistant Secretary for Postsecondary Education.

[FR Doc. 86-28027 Filed 12-12-86; 8:45 am]
BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Proposed Subsequent Arrangements, European Atomic Energy Community

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of proposed "subsequent arrangements" under the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangements to be carried out under the above-mentioned agreement involve approval of the following sales:

Contract No. S-EU-909 for the supply of 74.983 grams of natural uranium to the University of Leiden, the Netherlands, for use as standard reference material. Contract No. S-EU-910 for the supply of 21.194 grams of natural uranium to Urangesellschaft, Frankfurt, the Federal Republic of Germany, for use as standard reference material.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that these subsequent arrangements will not be inimical to the common defense and security.

These subsequent arrangements will take affect no sooner than fifteen days after the date of publication of this notice. For the Department of Energy.

Dated: December 8, 1986.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs and Energy Emergencies.

[FR Doc. 86-28019 Filed 12-12-86; 8:45 am]
BILLING CODE 6450-01-M

Proposed Subsequent Arrangements, European Atomic Energy Community and Sweden

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of proposed "subsequent arrangements" under the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation between the Government of the United States of America and the Government of Sweden concerning Peaceful Uses of Nuclear Energy.

The subsequent arrangements to be carried out under the above-mentioned agreements involves approval for the return of 30 kilograms of U.S. origin irradiated research reactor fuel from the FRG reactor in Geesthacht, the Federal Republic of Germany, and 32 kilograms of U.S. origin irradiated research and test reactor fuel from the R-2 reactor in Sweden for reprocessing and storage in U.S. Department of Energy facilities. The return of highly enriched uranium (HEU) is consistent with U.S. nonproliferation policy in that it serves to reduce the amount of HEU abroad.

In acordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that these subsequent arrangements will not be inimical to the common defense and security.

These subsequent arrangements will take effect no sooner than fifteen days after the date of publication of this notice. For the Department of Energy.

Dated: December 8, 1986.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs and Energy Emergencies.

[FR Doc. 85-28018 Filed 12-12-86; 8:45 am]

BILLING CODE 6450-01-M

Intent To Grant Exclusive Patent License, Enhanced Energy Systems, Inc.

Notice is hereby given of an intent to grant to Enhanced Energy Systems, Inc. of Albuquerque, New Mexico, an exclusive license under five U.S. patents relating to a Downhole Steam Generator, and counterparts in Canada, Mexico, and Venezuela. The five U.S. patents are:

U.S. Patent No. 4,411,618, "Downhole Steam Generator with Improved/Cooling Features"

U.S. Patent No. 4,385,267, "Downhole Steam Generator Having a Downhole Oxidant Compressor"

U.S. Patent No. 4,385,661, "Downhole Steam Generator with Improved Preheating, Combustion, and Protection Features"

U.S. Patent No. 4,390,062, "Downhole Steam Generator Using Low Pressure Fuel and Air Supply"

U.S. Patent No. 4,366,860, "Improved Direct-Air Downhole Steam Injector"

The patents are owned by the United States of America, as represented by the Department of Energy (DOE).

The proposed license will be exclusive, but of a limited duration, to be negotiated, and further subject to a license and other rights retained by the U.S. Government. DOE intents to grant the license, upon a final determination in accordance with 35 U.S.C. 209(c), unless within 60 days of this notice the Assistance General Counsel for Patents, Department of Energy, Washington, DC 20585, receives in writing any of the following, together with supporting documents:

(i) A statement from any person setting forth reasons why it would not be in the best interests of the United States to grant the proposed license; or

(ii) An application for a nonexclusive license to any of the subject patents, in which applicant states that he has already brought the particular invention to practical application or is likely to bring the invention to practical application expeditiously.

The Department will review all written responses to this notice, and will grant the license if, after expiration of the 60-day notice period, and after consideration of written responses to this notice, a determination is made, in accordance with 35 U.S.C. 209(c), that the license grant is in the public interest.

Issued in Washington, DC, on December 9, 1986.

J. Michael Farrell,

General Counsel.

[FR Doc. 86-28020 Filed 12-12-86; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER87-137-000 et al.]

Boston Edison Company et al. Electric Rate and Corporate Regulation Filings

December 9, 1986.

Take notice that the following filings have been made with the Commission:

1. Boston Edison Co.

[Docket No. ER87-137-000]

Take notice that on December 2, 1986, Boston Edison Company (Edison) tendered for filing a supplemental Exhibit A to a Service Agreement for Cambridge Electric Light Company (Cambridge), under its FERC Electric Tariff, Original Volume No. III, Non-Firm Transmission Service (the Tariff). The Exhibit A specifies the amount and duration of transmission service required by Cambridge under the Tariff.

Edison requests waiver of the Commission's notice requirements to permit the Exhibit A to become effective as of the commencement date of the transaction to which it relates, November 1, 1986.

Edison states that it has served the filing on Cambridge Electric Light Company and the Massachusetts Department of Public Utilities.

Comment date: December 22, 1986, in accordance with Standard Paragraph E at the end of this notice.

2. The Connecticut Light and Power Co.

[Docket No. ER87-132-000]

Take notice that on November 28, 1986, The Connecticut Light and Power Company (CL&P) tendered for filing a proposed rate schedule pertaining to a sales agreement with Respect to Montville and Middletown Units and a sales agreement with respect to various gas turbine units (each a "Sales Agreement," together the "Sales Agreements") between CL&P and South Hadley Electric Light Department ("South Hadley") dated as of November 1, 1986.

CL&P states that the rate schedule provides for a sale to South Hadley of capacity and energy from CL&P's Montville Units Nos. 5 and 6 and Middletown Units Nos. 2, 3, and 4 and various gas turbine units (the "Units") together with related transmission service. The Sales Agreement with respect to the Montville and Middletown Units has a term starting on November 1, 1986 and ending on October 31, 1991. The Sales Agreement with respect to various gas turbine units has a term starting on November 1, 1986 and ending on 30 days' notice.

CL&P requests that the Commission permit the rate schedule filed to become effective as of November 1, 1986.

CL&P states that the capacity charge rate for the first twenty-six months for the proposed service is a negotiated rate, based on the market price for this capacity at the time that this sale was negotiated. This rate is expected to be less than the cost-of-service rate, and in no case shall it exceed the cost-of-service rate.

The capacity charge for the remainder of the term is determined on a cost-of-service basis. The monthly transmission charge rate is equal to one-twelfth of the annual average cost of transmission service on the transmission systems of CL&P and its affiliated Northeast Utilities companies at the time that the Sales Agreement was executed and is determined in accordance with section 13.9 of the New England Power Pool (NEPOOL) Agreement and the uniform rules adopted by the NEPOOL Executive Committee. The monthly Transmission Charge is determined by the product of (i) the appropriate monthly transmission charge rate ($/kW-month) and (ii) the number of kilowatts of winter capability which South Hadley is entitled to receive during such month. The Energy Charge and the Station Service Energy Charge are based on South Hadley's portion of the applicable fuel expenses and no special cost-of-service studies were made to derive these charges.

CL&P states that the services to be provided under the Sales Agreement are similar to the Services provided by CL&P pursuant to purchase agreements with UNITIL Power Corp. (FERC Rate Schedule Nos. 358 and 363). CL&P states that a copy of this filing has been mailed to South Hadley, South Hadley, MA.

CL&P further states that the filing is in accordance with Part 35 of the Commission's Regulations.

Comment date: December 22, 1986, in accordance with Standard Paragraph E at the end of this notice.

3. Pacific Gas and Electric Co.

[Docket No. ER87-133-000]

Take notice that on December 2, 1986, Pacific Gas and Electric Company (PG&E) tendered for filing proposed changes to Rate Schedule FERC No. 85. These changes are to certain rates, terms and conditions concerning those

services rendered by PG&E under the agreement entitled "Interconnection Agreement Between Pacific Gas and Electric Company and the City of Santa Clara" (the Inter-connection Agreement) which has been filed as part of Rate Schedule FERC No. 85. These changes are embodied in two bilateral agreements:

- "Agreement for An Implementation Procedure for Certain 1984 and 1985 Rate Adjustment under the 1984–1985 Appendix A to the Interconnection Agreement between Pacific Gas and Electric Company and the City of Santa Clara" (Implementation Agreement).
- Revised Appendix A (Rate Appendix) to the Interconnection Agreement.

The Implementation Agreement embodies the agreement between PG&E and the City of Santa Clara (Santa Clara) on the procedure and mechanism designed to recover amounts due PG&E from Santa Calar and Santa Clara from PG&E as a result of rate changes based on certain California Public Utilities Commission and Federal Energy Regulatory Commission decisions. PG&E and Santa Clara have agreed to cancel the Implementation Agreement because Santa Clara will make a one-time lump-sum payment to PG&E to recover the net amount due PG&E under the Implementation Agreement.

The proposed changes to the rates, terms, and conditions in the Rate Appendix for services provided by PG&E to Santa Clara modify the present rate agreement between PG&E and Santa Clara, including revising the rate arrangements regarding the Diablo Canyon Nuclear Power Plant and the Fuel Cost Adjustment. Using 1986 billing determinants, these rate changes would result in an estimated yearly revenue increase of $449,489.

Copies of this filing were served upon Santa Clara and the Public Utilities Commission of the State of California.

Comment date: December 22, 1986, in accordance with Standard Paragraph E at the end of this notice.

4. Pacific Power & Light Co., an assumed business name of PacifiCorp.

[Docket No. ER86–394–001]

Take Notice that Pacific Power & Light Company (Pacific), an assumed business name of PacifiCorp, on December 3, 1986, tendered for filing, in accordance with § 35.30 of the Commission's Regulations, and in compliance with the Commission's Order Accepting Rates for Filing Subject to Adjustment, Noting Intervention, and Terminating Docket under Docket No. ER86–394–000 and dated November 7, 1986, a reconciliation of Pacific's April 4, 1986 filing to the Commission's Order. The Commission's Order revises the Average System Cost Rate for the state of Washington applicable to the exchange of power between Bonneville and Pacific.

Copies of the filing were supplied to Bonneville, the Washington Utilities and Transportation Commission, and Bonneville's Direct Service Industrial Customers.

Comment date: December 22, 1986, in accordance with Standard Paragraph E at the end of this notice.

5. Public Service Co., of New Mexico

[Docket No. ER87–43–000]

Take notice that on November 28, 1986, Public Service Company of New Mexico (PNM) submitted for filing revised information concerning PNM's rate based on power or energy purchased by PNM for resale under an Economy Energy Agreement dated August 14, 1986, between PNM and the City of Los Angeles Department of Water and Power (Los Angeles).

Copies of the filing have been served upon Los Angeles and the New Mexico Public Service Commission.

Comment date: December 22, 1986, in accordance with Standard Paragraph E at the end of this notice.

6. The United Illuminating Co., et al.

[Docket No. ER87–136–000]

Take Notice that on December 1, 1986, the United Illuminating Company ("UI") tendered for filing as an initial rate schedule the Unit Sale Agreement (the "Agreement") between UI and UNITIL Power Corp. ("UNITIL Power"). The Agreement, dated as of June 5, 1986, first amendment June 27, 1986, provides for UI to sell unit capacity and associated energy from certain of its generating units to UNITIL Power.

The term of the Agreement began on October 1, 1986 and will continue until October 31, 1996, unless extended by mutual agreement of the parties.

UI requests that the Commission waive its standard notice period and allow the Agreement to become effective on October 1, 1986.

UNITIL Power has filed a Certificate of Concurrence in this docket.

UI States that a copy of this rate schedule has been mailed to UNITIL Power, Bedford, New Hampshire.

UI further states that the filing is in accordance with section 35 of the Commission's Regulations.

Comment date: December 22, 1986, in accordance with Standard Paragraph E at the end of this document.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–28011 Filed 12–12–86; 8:45 am]

BILLING CODE 6717–01–M

[Project Nos. 9492–005 et al.]

Surrender of Preliminary Permits; Easton Associates et al.

December 8, 1986.

Take notice that the following preliminary permits have been surrendered effective as described in Standard Paragraph I at the end of this notice.

1. Easton Associates

[Project No. 9492–005]

Take notice that Easton Associates, permittee for the proposed Silver Creek Project No. 9492, has requested that its preliminary permit be terminated. The permit was issued on April 16, 1986, and would have expired March 31, 1989. The project would have been located on the Silver Creek near the town of Easton, Kittitas County, Washington. The permittee cites that the proposed project is not feasible as the basis for the surrender request.

The permittee filed the request on November 24, 1986.

2. Lower Slate Creek Associates

[Project No. 9569–006]

Take notice that Lower Slate Creek Associates permittee for the proposed Lower Slate Creek Project No. 9569, has requested that its preliminary permit be terminated. The permit was issued on May 20, 1986, and would have expired April 30, 1989. The project would have been located on the Slate Creek in Nezperce National Forest, Idaho County, Idaho. The permittee cites that the proposed project is not feasible as the basis for the surrender request.

The permittee filed the request on November 24, 1986.

3. Skookumchuck Creek Associates

[Project No. 9572-005]

Take notice that Skookumchuck Creek Associates, permittee for the proposed Skookumchuck Creek Project No. 9572, has requested that its preliminary permit be terminated. The permit was issued on April 14, 1986, and would have expired March 31, 1989. The project would have been located on the North Fork Skookumchuck Creek near the town of Riggins, Idaho County, Idaho. The permittee cites that the proposed project is not feasible as the basis for the surrender request.

The permittee filed the request on November 24, 1986.

4. Rosebud Creek Associates

[Project No. 9575-002]

Take notice that Rosebud Creek Associates, permittee for the proposed Rosebud Creek Project No. 9775, has requested that its preliminary permit be terminated. The permit was issued on May 20, 1986, and would have expired April 30, 1989. The project would have been located on the Rosebud Creek in Custer National Forest, Carbon County, Montana. The permittee cites that the proposed project is not feasible as the basis for the surrender request.

The permittee filed the request on November 24, 1986.

Standard Paragraph

I. The preliminary permit shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007 in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Kenneth F. Plumb,

Secretary

[FR Doc. 86-27981 Filed 12-12-86; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-59236; FRL-3127-4]

Functional Acrylate Type Polymer Test Market Exemption Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5(a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's final rule pulished in the Federal Register of May 13, 1983 (48 FR 21722). This notice, issued under section 5(h)(6) of TSCA, announces receipt of an application for exemption, provides a summary, and requests comments on the appropriateness of granting the exemption.

DATE: Written comments by: December 30, 1986.

ADDRESS: Written comments, identified by the document control number "[OPTS-59236]" and the specific TME number should be sent to: Document Control Officer (TS-790), Confidential Data Branch, Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E-201, 401 M Street, S.W., Washington, DC 20460, (202) 382-3532.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-611, 401 M Street, SW., Washington, DC 20460, (202) 382-3725.

SUPPLEMENTARY INFORMATION: Effective with this notice, a nonsubstantive change in format is being initiated for information published under sections 5(d)(2) and 5(h)(6) of the Toxic Substances Control Act. Toxicity data will only appear in the notice when submitted with the TME application. Exposure and environmental release/disposal information will no longer be published in the notice. The following notice contains information extracted from the non-confidential version of the TME application received by EPA. The complete non-confidential application is available in the Public Reading Room NE-G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

T 87-5

Close of Review Period. January 17, 1987.

Manufacturer. Confidential.

Chemical. (G) Functional acrylate type polymer.

Use/Production. (G) Industrial paint ingredient. Prod. range: 82,000 kg/8 months.

Dated: December 5, 1986.

Denise Devoe,

Acting Division Director, Information Management Division.

[FR Doc. 86-28033 Filed 12-12-86; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59797; FRL-3127-3]

Certain Chemicals Premanufacture Notice; Poly (Carbonate-ester)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the Federal Register of May 13, 1983 (48 FR 21722). In the Federal Register of November 11, 1984, (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. PMNs for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of one such PMN and provides a summary.

DATES: Close of Review Period: Y 87-57, December 18, 1986.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-611, 401 M Street SW., Washington, DC 20460, (202) 382-3725.

SUPPLEMENTARY INFORMATION: Effective with this notice, a nonsubstantive change in format is being initiated for information published under sections 5(d)(2) and 5(h)(6) of the Toxic Substances Control Act. Toxicity data will only appear in the notice when submitted with the PMN. Exposure and environmental release/disposal information will no longer be published in the notice. The following notice contains information extracted from the non-confidential version of the submission by the manufacturer on the exemption received by EPA. The complete non-confidential document is available in the Public Reading Room

NE–G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

Y 87–57

Manufacturer. General Electric Company.

Chemical. (G) Poly (carbonate-ester).

Use/Production. (S) Industrial, commercial and consumer goods and engineering thermoplastic parts. Prod. range: Confidential.

Dated: December 5, 1986.

Denise Devoe,

Acting Division Director, Information Management Division.

[FR Doc. 86–28035 Filed 12–12–86; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–51653; FRL–3127–5]

Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of twenty-four such PMNs and provides a summary of each.

DATES: Close of Review Period:

P 87–282, 87–283, 87–284, and 87–285—February 25, 1987

P 87–286—February 28, 1987

P 87–287, 87–288, 87–289, 87–290, 87–291, 87–292, 87–293, 87–294, 87–295, and 87–296—March 1, 1987

P 87–297, 87–298, 87–299, 87–300, 87–301, 87–302, 87–303 and 87–304—March 2, 1987

P 87–305—March 3, 1987

Written comments by:

P 87–282, 87–283, 87–284, and 87–285—Janaury 27, 1987

P 87–286—January 29, 1987

P 87–287, 87–288, 87–289, 87–290, 87–291, 87–292, 87–293, 87–294, 87–295, and 87–296—January 30, 1987

P 87–297, 87–298, 87–299, 87–300, 87–301, 87–302, 87–303 and 87–304—January 31, 1987

P 87–305—February 1, 1987

ADDRESS: Written comments, identified by the document control number "[OPTS–51653]" and the specific PMN number should be sent to: Document Control Officer (TS–790), Confidential Data Branch, Information Management Division, Office of Toxic Substances, Rm. E–201, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 382–3532.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–611, 401 M Street, SW., Washington, DC 20460, (202) 382–3725.

SUPPLEMENTARY INFORMATION: Effective with this notice, a nonsubstantive change in format is being initiated for information published under sections 5(d)(2) and 5(h)(6) of the Toxic Substances Control Act. Toxicity data will only appear in the notice when submitted with the PMN. Exposure and environmental release/disposal information will no longer be published in the notice. The following notice contains information extracted from the non-confidential version of the submisssion provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room NE–G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

P 87–282

Manufacturer. Confidential.

Chemical. (G) Aliphatic aromatic polyester.

Use/Production. (G) Polymer with open use. Prod. range: 121,000 to 160,000 kg/yr.

P 87–283

Manufacturer. Confidential.

Chemical. (G) Epoxy modified alkyd resin.

Use/Production. (S) Industrial water soluable coating component. Prod. range: 100,000 to 165,000 kg/yr.

P 87–284

Importer. Confidential.

Chemical. (G) Substituted dicarboxylic acid.

Use/Import. (G) Vapor phase soldering of printed circuit boards. Import. range: Confidential.

P 87–285

Manufacturer. Confidential.

Chemical. (G) Alkenyl succinimide.

Use/Production. (G) Gasoline additive. Prod. range: Confidential.

P 87–286

Manufacturer. Confidential.

Chemical. (G) Unsaturated polyester.

Use/Production. (S) Thermoset plastic molding resin. Prod. range: 150,000 to 700,000 kg/yr.

P 87–287

Manufacturer. Confidential.

Chemical. (G) Substituted acrylic polymer.

Use/Production. (G) Coating with open and dispersive uses. Prod. range: 160,000 to 200,000 kg/yr.

P 87–288

Manufacturer. American Hoechst Corporation.

Chemical. (G) Substituted naphthalene sulfonic acid.

Use/Production. (S) Site limited intermediate for fiber reactive dyes. Prod. range: Confidential.

Toxicity Data. Irritation: Eye—Severe; Skin—Slight; Ames test: Positive mutational response but within limits.

P 87–289

Manufacturer. Confidential.

Chemical. (G) Alkoxyamine/RE–32626.

Use/Production. (G) Intermediate for new herbicide. Prod. range: Confidential.

Toxicity Data. Acute oral: 850 mg/kg; Acute dermal: 850 mg/kg; Irritation: Skin—Corrosive; Inhalation: 1.10 mg/l; Ames test: Negative.

P 87–290.

Manufacturer. Confidential.

Chemical. (G) Trione/RE–4555.

Use/Production. (G) Intermediate for new herbicide. Prod. range: Confidential.

Toxicity Data. Acute oral: 171 mg/kg; Irritation: Skin—Slight, Eye—Slight; Ames test: Negative.

P 87–291

Importer. Confidential.

Chemical. (G) Acrylic acid, bicycloheptene triester with a branch linear alkane.

Use/Import. (G) A component of formulations for open, non-dispersive use. Import range: Confidential.

P 87–292

Manufacturer. E.I. du Pont de Nemours & Company, Inc.

Chemical. (G) Copolyester.

Use/Production. (G) Liner and film. Prod. range: Confidential.

P 87–293

Manufacturer. Confidential.

Chemical. (G) Aliphatic polyester with neopentyl glycol.

Use/Production. (G) Industrially used coating having a dispersive use. Prod. range: 25,000 to 100,000 kg/yr.

P 87-294

Importer. Nuodex, Incorporated.
Chemical. (S) Linear, $^{C}10$-$^{C}13$-alkylbenzenesulfonic acid.
Use/Import. (S) Production of sodium alkylbenzene sulfonate (LAS) surfactants, detergents; neutralization with amines to alkylbenzene sulfonate surfactants, detergents. Import. range: 1,000 to 10,000 kg/yr.
Toxicity Data. Acute oral: 1,350 mg/kg; Irritation: Skin Corrosive.

P 87-295

Importer. Nuodex, Incorporated.
Chemical. (G) Stearylalcohol ethoxylated polymer with polyethylene glycol and hexamethylene diisocyanate.
Use/Import. (G) Thickening agent. Import. range: Confidential.

P 87-296

Manufacturer. Fritzsche, Dodge & Olcott.
Chemical. (S) 1-Penten-3-one, 2-methyl-1-(2,6,6-trimethyl-2-cyclohexen-1-yl).
Use/Production. (S) Consumer, as a component of fragrance compounds which may find end use in household chemicals such as dishwashing, laundry detergents and air fresheners, etc. Prod. range: Confidential.
Toxicity Data. Acute oral: 5.0. g/kg; Acute dermal: 2.0 g/kg; Irritation: Eye—Corrosive.

P 87-297

Manufacturer. Confidential.
Chemical. (G) Polymeric aromatic polyester ether.
Use/Production. (G) Open, non-dispersive. Prod. range: Confidential.

P-87-298

Importer. Confidential.
Chemical. (G) Substituted triphenodioxazine.
Use/Import. (G) Open, non-dispersive. Import range: Confidential.

P-87-299

Manufacturer. Confidential.
Chemical. (G) Nitrophenoxy substituted pentanamide.
Use/Production. (G) Contained use in an article. Prod. range: 5,000 to 10,000 kg/yr.

P-87-300

Manufacturer. Confidential.
Chemical. (S) Acetic acid, isothiocyanato, ethyl ester.
Use/Production. (G) Chemical intermediate. Prod. range: 3,000 to 6,000 kg/yr.

P-87-301

Manufacturer. Confidential.
Chemical. (G) Substituted thioxotetrazole.
Use/Production. (G) Chemical intermediate. Prod. range: 1,300 to 2,600 kg/yr.

P-87-302

Manufacturer. Confidential.
Chemical. (G) Substituted thioxotetrazole salt.
Use/Production. (G) Chemical intermediate. Prod. range: 2,200 to 4,500 kg/yr.

P-87-303

Importer. E.I. du Pont de Nemours and Company.
Chemical. (S) 1,3,4-Thiadiazole-2(3H)-thione,5,5'-dithiobis.
Use/Import. (S) Commercial photographic film additive. Import range: 3 to 5 kg/yr.
Toxicity Data. Acute oral: 7,500 mg/kg; Irritation: Skin—Non-irritant, Eye—Mild.

P-87-304

Importer. Confidential.
Chemical. (G) Aryl azo thiopene.
Use/Import. (G) Dyestuff. Import range: Confidential.
Toxicity Data. Acute oral: >2,000 mg/kg; Acute dermal: >2,000 mg/kg; Irritation: Skin—Non-irritant, Eye—Mild irritant, Skin Sensitization: Moderate sensitizer; Salmonella mutagenicity assay: Unequivocal positive.

P-87-305

Manufacturer. CasChem, Incorporated.
Chemical. (G) Polymeric ricinoleate.
Use/Production. (S) A polyol for urethane coatings and polyol for non-urethane coatings. Prod. range: Confidential.
Toxicity Data. Acute oral: 50 mg/kg. Irritation: Skin—Non-irritant; Inhalation: 2 mg/L/hr.

Dated: December 5, 1986.

Denis Devoe,

Acting Division Director, Information Management Division.

[FR Doc. 86-28034 Filed 12-12-86; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51638A; FRL-3127-2]

Certain Chemical Premanufacture Notice; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of two premanufacture notices that were inadvertently omitted from publication in the **Federal Register** on September 2, 1986 (51 FR 31170).

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-611, 401 M Street SW., Washington, DC 20460, (202) 382-3725.

DATES: Close of Review Period:

P 86-1578 and 86-1579—November 19, 1986.

SUPPLEMENTARY INFORMATION: In FR Doc. 86-19717 the **Federal Register** of September 2, 1986 (51 FR 31170) the following information was inadvertently omitted from OPTS-51638) and is to read:

P-86-1578

Manufacturer. Confidential.
Chemical. (G) Sulfurated polyether.
Use/Production. (G) Chemical intermediate. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release. Confidential.

P-86-1579

Manufacturer. Dynamit Nobel. Chemicals.
Chemical. (G) Alkylalkoxysilane.
Use/Production. (G) Additive for polymerization catalyst in a closed process. Prod. range: 5,000 to 50,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacturer: dermal, 4 workers up to .25 hr/day, up to 17 days/yr.
Environmental Release. 2.2 kg/batch released to land. Disposal by Resource Conservation and Recovery Act (RCRA) permitted landfill.

Dated: December 3, 1986.

Denise Devoe,

Acting Director, Information Management Division.

[FR Doc. 86-28036 Filed 12-12-86; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

December 9, 1986.

Background

Notice is hereby given of the submission of proposed information collection(s) to the Office of Management and Budget (OMB) for its review and approval under the Paperwork Reduction Act (Title 44 U.S.C. Chapter 35) and under OMB

regulations on Controlling Paperwork Burdens on the Public (5 CFR Part 1320). A copy of the proposed information collection(s) and supporting documents is available from the agency clearance officer listed in the notice. Any comments on the proposal should be sent to the OMB desk officer listed in the notice. OMB's usual practice is not to take any action on a proposed information collection until at least ten working days after notice in the **Federal Register**, but occasionally the public interest requires more rapid action.

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Nancy Steele—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202-452-3822)

OMB Desk Officer—Robert Neal—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503 (202-395-6880)

Request for OMB Approval To Revise the Following Report

1. Report title: Reports of Condition and Income
Agency form number: FFIEC 031-034
OMB Docket number: 7100-0036
Frequency: Quarterly
Reporters: State member banks
Small business are affected.
General description of report: This information collection is mandatory (12 U.S.C. 324) and is given partial confidential treatment.

State member banks are required to file detailed schedules of assets, liabilities, and capital accounts in the form of a condition report and summary statement; detailed schedule of operating income and expense, sources and disposition of income, and changes in equity capital in the form of an income statement; and a variety of supporting schedules. Data are used for supervisory and monetary policy purposes.

Board of Governors of the Federal Reserve System, December 9, 1986.

William W. Wiles,

Secretary of the Board.

[FR Doc. 86-28000 Filed 12-12-86; 8:45 am]

BILLING CODE 6210-01-M

Change in Bank Control Notice; Acquisition of Banks or Bank Holding Companies; Johnnie Ammons

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than December 30, 1986.

A. Federal Reserve Bank of Dallas

(Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Johnnie Ammons*, Charles Blasingame, Jim Dalton, Bill Davenport, Jerry Smith, all of Azle, Texas, W. E. Rector, Fort Worth, Texas, and Robert Evans, Decatur, Texas; to acquire 79.95 percent of the voting shares of Azle Bancorp, Azle, Texas, and thereby indirectly acquire Azle State Bank, Azle, Texas.

Board of Governors of the Federal Reserve System, December 10, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-28001 Filed 12-12-86; 8:45 am]

BILLING CODE 6210-01-M

First Essex Bancorp. Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than January 2, 1987.

A. Federal Reserve Bank of Boston (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *First Essex Bancorp, Inc.*, Lawrence, Massachusetts; to become a bank holding company by acquiring 100 percent of the voting shares of First Essex Savings Bank, Lawrence, Massachusetts.

B. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Citizens Financial Corp.*, Elkins, West Virginia; to become a bank holding company by acquiring 100 percent of the voting shares of Citizens National Bank of Elkins, Elkins, West Virginia.

C. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Waseca Bancshares, Inc.*, Waseca, Minnesota; to become a bank holding company by acquiring 100 percent of the voting shares of First State Bank of Waseca, Waseca, Minnesota.

D. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *W.H.E.C., Inc.*, Del Mar, California; to become a bank holding company by acquiring 100 percent of the voting shares of Capital Bank of Carlsbad, Carlsbad, California.

Board of Governors of the Federal Reserve System, December 10, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-28002 Filed 12-12-86; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institutes of Diabetes and Digestive and Kidney Diseases; National Diabetes Advisory Board Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Diabetes Advisory Board and its subcommittees on January 23, 1987, 8:30 a.m. to adjournment, at the Orlando

World Center Marriott, World Center Drive, Orlando, Florida 32821. The meeting, which will be open to the public, is being held to discuss the Board's activities and to continue evaluation of the implementation of the long-range plan to combat diabetes mellitus. Attendance by the public will be limited to space available. Notice of the meeting room will be posted in the hotel lobby.

Mr. Raymond M. Kuehne, Executive Director, National Diabetes Advisory Board, 1801 Rockville Pike, Suite 500, Rockville, Maryland 20852, (301) 496–6045, will provide on request an agenda and roster of the members. Summaries of the meeting may also be obtained by contacting his office.

Dated: December 8, 1986.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 86–28046 Filed 12–12–86; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Arthritis and Musculoskeletal and Skin Diseases National Arthritis Advisory Board Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Arthritis Advisory Board and its subcommittees on January 12 and 13, 1987, 8:30 a.m. to 5:00 p.m. at the Atlanta Airport Marriott, 4711 Best Road, College Park, Georgia 30337. The meeting, which will be open to the public, is being held to discuss the Board's activities and to continue evaluation of the implementation of the long-range plan to combat arthritis. The Board members will also be visiting the Centers for Disease Control (CDC) and will meet with staff members to discuss CDC's arthritis related activities. Attendance by the public will be limited to space available. Notice of the meeting room will be posted in the hotel lobby.

Mr. Raymond M. Kuehne, Executive Director, National Arthritis Advisory Board, 1801 Rockville Pike, Suite 500, Rockville, Maryland 20852, (301) 496–6045, will provide on request an agenda and roster of the members. Summaries of the meeting may also be obtained by contacting his office.

Dated: December 8, 1986.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 86–28045 Filed 12–12–86; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Clinical Applications and Prevention Advisory Committee, Division of Epidemiology and Clinical Applications, National Heart, Lung, and Blood Institute, National Institutes of Health, January 13–14, 1987. The meeting will be held in Conference Room 7 (C Wing), Building 31, 9000 Rockville Pike, Bethesda, Maryland 20892.

This meeting will be open to the public on January 13 from 9:00 a.m. to recess and from 8:30 a.m. to adjournment on January 14 to discuss new initiatives, program policies, and issues. Attendance by the public will be limited to space available.

Terry Bellicha, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20892, phone (301) 496–4236, will provide a summary of the meeting and a roster of committee members upon request.

Dr. Millicent Higgins, Acting Director, Division of Epidemiology and Clinical Applications, Federal Building, Room 212, Bethesda, Maryland 20892, phone (301) 496–2533, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.867, Heart and Vascular Diseases Research, National Institutes of Health)

Dated: December 4, 1986.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 86–28044 Filed 12–12–86; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; Cardiology Advisory Committee Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Cardiology Advisory Committee, National Heart, Lung, and Blood Institute, January 12–13, 1987, Building 31C, Conference Room 8, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892.

The entire meeting will be open to the public from 8:00 a.m. on January 12 to adjournment on January 13. Attendance by the public will be limited to space available. Topics for discussion will include a review of the research programs relevant to the Cardiology area and consideration of future needs and opportunities.

Terry Bellicha, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, Room 4A31, Building 31, National Institutes of Health, Bethesda, Maryland 20892, telephone (301) 496–4236, will provide a summary of the meeting and a roster of the Committee members.

Eugene R. Passamani, M.D., Associate Director for Cardiology, Division of Heart and Vascular Diseases, National Heart, Lung, and Blood Institute, Room 320, Federal Building, Bethesda, Maryland 20892, telephone (301) 496–5421, will furnish substantive program information upon request.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and Vascular Diseases Research, National Institutes of Health)

Dated: December 4, 1986.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 86–28043 Filed 12–12–86; 8:45 am]

BILLING CODE 4140–01–M

National Library of Medicine; Hearing of the National Library of Medicine Board of Regents

Pursuant to Pub. L. 92–463, notice is hereby given of a hearing of the Board of Regents on January 27, 1987, in the auditorium of the National Library of Medicine, Lister Hill Center Building, 8600 Rockville Pike, Bethesda, Maryland.

The entire hearing will be open to the public from 9:00 a.m. to approximately 4:00 p.m. for discussions that will aid the Board of Regents in encouraging the use of permanent, archivalquality materials in the publishing of biomedical literature. Attendance by the public will be limited to space available.

Mr. Charles R. Kalina, Special Projects Officer, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20894, Telephone Number: 301–496–0592, will furnish the roster of the members of the Board, the agenda, and other information pertaining to the meeting.

Dated: December 8, 1986.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 86–28047 Filed 12–12–86; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

Agency for Toxic Substances and Disease Registry; Request for Comments and Secondary Data on Lead Poisoning in Children

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Public Health Service, HHS.

ACTION: Request for comments and secondary data.

SUMMARY: The Agency for Toxic Substances and Disease Registry (ATSDR), in its preparation for a study of lead poisoning in children, is interested in obtaining existing and available reports and research findings on the following: (1) Childhood lead exposures and sources of lead exposure; and (2) Methods to reduce childhood exposure to lead in the environment and lead in the home.

DATE: Comments concerning this notice must be submitted by January 1, 1987.

ADDRESS: Comments concerning this announcement, or inquiries about the study, should be submitted to: Barry L. Johnson, Ph.D., Associate Administrator, Agency for Toxic Substances and Disease Registry, Atlanta, Georgia 30333.

SUPPLEMENTARY INFORMATION: This study is mandated by the Superfund Amendments and Reauthorization Act of 1986 (section 118(f)), which states:

Study of Lead Poisoning in Children

(1) The Administrator of the Agency for Toxic Substances and Disease Registry shall, in consultation with the Administrator of the Environmental Protection Agency and other officials as appropriate, not later than March 1, 1987, submit to the Congress, a report on the nature and extent of lead poisoning in children from environmental sources. Such report shall include, at a minimum, the following information—

(A) an estimate of the total number of children, arrayed according to Standard Metropolitan Statistical Area or other appropriate geographic unit, exposed to environmental sources of lead at concentrations sufficient to cause adverse health effects;

(B) an estimate of the total number of children exposed to environmental sources of lead arrayed according to source or source types;

(C) a statement of the long term consequences for public health of unabated exposures to environmental sources of lead and including but not limited to, diminution in intelligence, increases in morbidity and mortality; and

(D) methods and alternatives available for reducing exposures of children to environmental sources of lead.

(2) Such report shall also score and evaluate specific sites at which children are known to be exposed to environmental sources of lead due to releases, utilizing the Hazard Ranking System of the National Priorities List.

(3) The costs of preparing and submitting the report required by this section shall be borne by the Hazardous Substance Superfund established under subchapter A of chapter 98 of Internal Revenue Code of 1954.

Dated: December 10, 1986.

James O. Mason,

Administrator, Agency for Toxic Substances and Disease Registry.

[FR Doc. 86-28074 Filed 12-12-86; 8:45 am]

BILLING CODE 4160-18-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N-86-1659]

Performance Review Board Appointments

AGENCY: Office of the Secretary, HUD.

ACTION: Notice of appointments.

SUMMARY: The Department of Housing and Urban Development announces the appointments of J. Michael Dorsey and Thomas T. Demery (alternate member) to the Departmental Performance Review Board. Their address is: Department of Housing and Urban Development, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Persons desiring any further information about the Performance Review Board and its members may contact Gail L. Lively, Director, Office of Personnel and Training, Department of Housing and Urban Development, Washington, DC 20410, telephone (202) 755-5500. (This is not a toll free number.)

Dated: December 4, 1986.

Samuel R. Pierce, Jr.,

Secretary, Department of Housing and Urban Development.

[FR Doc. 86-27984 Filed 12-12-86; 8:45 am]

BILLING CODE 4210-32-M

Office of Administration

[Docket No. N-86-1660]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Robert Fishman, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 755-6050. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirement is described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Nondiscrimination on the Basis of Age in HUD Programs or Activities
Office: Fair Housing and Equal Opportunity
Form Number: None
Frequency of Submission: On Occasion
Affected Public: State or Local Governments, Businesses or Other For-Profit, and Non-Profit Institutions
Estimated Burden Hours: 16
Status: New
Contact: Myra Kennedy, HUD, (202) 755-5404; Robert Fishman, OMB, (202) 395-6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: December 2, 1986.

Donald C. Demitros,

Director, Office of Information Policies and Systems.

[FR Doc. 86-27985 Filed 12-12-86; 8:45 am]

BILLING CODE 4210-01-M

Office of Environment and Energy

[Docket No. I-86-142]

Intended Environmental Impact Statement

The Department of Housing and Urban Development, Santa Ana, California Office intends to prepare an Environmental Impact Statement (EIS) for La Cuesta Fontana Project, under the HUD programs described in the appendix to this Notice. This Notice is required by the Council on Environmental Quality under its rule (40 CFR 1500).

Interested individuals, governmental agencies, and private organizations are invited to submit information and comments concerning the project to the specific person or address indicated in the appropriate part of the appendix.

Particularly solicited is information on reports or other environmental studies planned or completed in the project area, major issues and data which the EIS should consider, and recommended mitigating measures and alternatives associated with the proposed project. Fedeal agencies having jurisdiction by law, special expertise or other special interests should report their interests and indicate their readiness to aid the EIS effort as a "cooperating agency."

This Notice shall be effective for one year. If one year after the publication of the Notice in the **Federal Register** a Draft EIS has not been filed on the project, then the Notice for the project shall be cancelled. If a Draft EIS is expected more than one year after the publication of the Notice in the **Federal Register**, then a new and updated Notice of Intent will be published.

Issued at Washington, DC, December 8, 1986.

Richard H. Broun,

Director, Office of Environment and Energy.

Appendix

EIS on La Cuesta Fontana Project, City of Fontana, San Bernardino County, California

The Department of Housing and Urban Development, Santa Ana Office intends to prepare an Environmental Impact Statement (EIS) on the subject project in the City of Fontana, California. The Department hereby solicits comments and information for consideration in this EIS.

Description: The bulk of the project site is bound by Sierra Avenue on the east, Citrus Avenue on the west, Highland Avenue on the south, and the power line 1,320 feet north of the proposed Summit Avenue extension on the north. An additional 20-acre parcel is located at the southeast corner of the site, across Highland Avenue and Sierra Avenue. The project site comprises approximately 820 acres and is planned to be developed with a combination of residential, commercial and industrial uses. Most of the land (i.e., 562 acres) is planned to be developed with a maximum of 3,330 residences. The spectrum of housing offered on the site is planned from single-family residences to high density, multiple-family units. A total of 151 acres is anticipated for public/quasi-public institutional uses and open space uses. The remaining 107 acres anticipates development with commercial uses on 66 acres and business park uses on 41 acres.

Need: The total project is expected to exceed HUD's 2,500 unit EIS threshold (24 CFR 50.42(b)(3)). An application is on file requesting Land Development Mortgage Insurance under Title X of the Housing and Community Development Act of 1974 (Pub. L. 93-383).

It has been determined that the HUD decision is a major federal action which may significantly affect the quality of the human environment. An Environmental Impact Statement will be prepared and distributed in accordance with the National Environmental Policy Act of 1969 (Pub. L. 91-190).

Alternatives: At this point HUD perceives the relevant alternatives as: (1) No development beyond what is currently there, (2) development as planned, and (3) redesign to mitigate adverse environmental impacts.

Scoping: This notice is part of the EIS scoping process and, as such, will be used by HUD to determine significant environmental issues, define the study boundary, identify data which the EIS should address, and identify cooperating agencies.

Comments: To assist in the preparation of the Environmental Impact Statement, Federal, State, and local agencies, and other interested persons and organizations are invited to participate in the scoping process by submitting comments on the project and its potential impacts. All comments received within 30 days of the invitation will be considered in the Environmental Impact Statement. Please submit all comments to: Mr. Dale McLane, U.S. Department of Housing and Urban Development, 34 Civic Center Plaza, Santa Ana, California 92712-2850.

[FR Doc. 86-27982 Filed 12-12-86; 8:45 am]

BILLING CODE 4210-29-M

[Docket No. I-86-143]

Intended Environmental Impact Statement

The Department of Housing and Urban Development, Fort Worth, Texas Regional Office, intends to prepare an Environmental Impact Statement (EIS) for the West Dallas Public Housing Project comprehensive plan, under the HUD program described in the appendix to this Notice. This Notice is required by the Council on Environmental Quality under its rule (40 CFR 1500).

Interested individuals, governmental agencies, and private organizations are invited to submit information and comments concerning the project to the specific person or address indicated in the appropriate part of the appendix.

Particularly solicited is information on reports or other environmental studies planned or completed in the project area, major issued and data which the EIS should consider, and recommended mitigating measures and alternatives associated with the proposed project. Federal agencies having jurisdiction by law, special expertise or other special interests should report their interests and indicate their readiness to aid the EIS effort as a "cooperating agency."

This Notice shall be effective for one year. If one year after the publication of the Notice in the **Federal Register** a Draft EIS has not been filed on a project, then the Notice for that project shall be cancelled. If a Draft EIS is expected more than one year after the publication of the Notice in the **Federal Register** then a new and updated Notice of Intent will be published.

Issued at Washington, DC, December 8, 1986.

Richard H. Broun,

Director, Office of Environment and Energy.

Appendix—Notice of Intent To Prepare an Environmental Impact Statement, Public Housing Project Tex 9-11, "West Dallas," Dallas, Texas

The Fort Worth Regional Office of the United States Department of Housing and Urban Development (HUD) proposes to prepare an Environmental Impact Statement (EIS) regarding the comprehensive plan (the West Dallas Plan) submitted by the Dallas Housing Authority (DHA) of the City of Dallas

with respect to the "West Dallas" or "Lake West" Public Housing Project, Tex 9–11, Dallas Texas. The DHA has submitted the West Dallas Plan in conformity with a proposed consent decree that it has entered into in *Walker, et al.*, v. *HUD, et al.*, Civil Action No. CA–3–85–121OR (N.D. Tex.), and which has been submitted for approval to the Hon. Jerry Buchmeyer of the U.S. District Court for the Northern District of Texas, Dallas Division.

Description: In 1953–54, the DHA constructed three contiguous housing projects know as:

George Loving Place, Project Tex 9–11A, 1500 units
Edgar Ward Place, Project Tex 9–11B, 1500 units
Elmer Scott Place, Project Tex 9–11C, 500 units

The three projects were known collectively as "West Dallas," and covered approximately 514 acress of land area. More recently the DHA has referred to the projects as "Lake West." The projects consisted of 503 one and two-story buildings, constructed in the early 1950's. Almost one-third of the dwelling units are now vacant.

The West Dallas Plan is a more comprehensive version of Exhibit B. to the proposed consent decree in *Walker*. Exhibits B is a plan for the DHA to comply with the court consent decree, parts of which are intended to achieve a decent, safe and sanitary environment for the residents of the West Dallas project. Upon the Courts approval of the proposed consent decree in *Walker*, Exhibit B (the West Dallas Plan) would require the following DHA actions in connection with the West Dallas Project.

A. Modernization of 800–900 units;

B. With respect to the remaining dwelling units:

(1) Demolition of 1,000 units that are currently vacant;

(2) Relocation of the current occupants either outside the West Dallas project or to units modernized pursuant to the West Dallas Plan;

(3) Demolition of additional units as units are vacated by occupant families and as replacement housing opportunities become available; and

(4) Preparation of the land for redevelopment for uses other than assisted low-income housing.

Need: Due to scope of the actions involved and the environmental concerns that may warrant further analysis, the Fort Worth Regional Office has determined that an EIS should be prepared pursuant to Pub. L. 91–190, the National Environmental Policy Act of 1969, 42 U.S.C. 4321, *et seq.* Should the Court not approve the proposed consent decree in *Walker*, the DHA would be required by the *Walker* settlement agreement only to take the action set forth in B.(2) above. In such instance, HUS would not prepare an EIS.

Alternatives: HUD will not have the opportunity of exploring alternative actions in the EIS, since upon the Court's approval of the proposed consent decree in *Walker*, those actions will be mandated. HUD will have the opportunity of exploring mitigative measures in carrying out the mandate with the minimum harm to the environment.

Scoping: The intent of this Notice is to be considered as part of the process for scoping the EIS. No formal scoping meeting is anticipated for the proposed actions. Responses to this Notice will be used to (1) determine major environemntal issues and (2) identify the concerns which the EIS should address.

Contact: Publication of this Notice shall be made in the **Federal Register** and in area newspapers of general circulation. Comments should be sent within 21 days following publication of this Notice in the **Federal Register** to I. J. Ramsbottom, Regional Environmental Officer, U.S. Department of Housing and Urban Development, P.O. Box 2905, Forth Worth, Texas 76113. The commercial telephone number of this office is 817/885–5482 and the FTS number is 728–5482. These are not toll free numbers.

[FR Doc. 86–27983 Filed 12–12–86; 8:45 am]
BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–07–4321–12]

Hearing To Discuss the Use of Helicopters and Motorized Vehicles To Gather Wild Horses

AGENCY: Bureau of Land Management, Interior.

ACTION: Battle Mountain District; public hearing to discuss the use of helicopters and motorized vehicles to remove excess wild horses in FY 87 and subsequent years.

SUMMARY: In accordance with Pub. L. 92–195 and 94–579, this notice sets forth the public hearing date to discuss the use of helicopters and motorized vehicles to remove excess wild horses from the Battle Mountain District during FY 87 and subsequent years.

DATE: January 9, 1987, 1:00 p.m.

ADDRESS: The hearing will take place at the Tonopah Resource Area Office, Building 102 Military Circle, Box 911, Tonopah, Nevada 89049. Telephone (702) 482–6214.

SUPPLEMENTARY INFORMATION: The use of helicopters and motorized vehicles to remove horses from the Reveille Wild Horse Herd Management Area will be discussed.

This hearing is open to the public. Interested persons may make oral or written statements. If you wish to make oral comments, please contact Terry L. Plummer by January 2, 1987. Written statements must be received by this date also.

FOR FURTHER INFORMATION CONTACT: Terry L. Plummer, District Manager, P.O. Box 1420, Battle Mountain, Nevada 89820 or phone (702) 635–5181.

Dated: December 8, 1986.

Terry L. Plummer,

District Manager, Battle Mountain, Nevada.

[FR Doc. 86–27991 Filed 12–12–86; 8:45 am]
BILLING CODE 4310–HC–M

[OK NM 63443]

Recreation and Public Purposes Classification; Greer, Harmon, and Tillman Counties, OK

AGENCY: Bureau of Land Management, Interior.

ACTION: Land classification.

SUMMARY: The following described lands have been examined and are hereby classified for sale under the provisions of the Recreation and Public Purposes Act of June 14, 1926 (44 Stat. 741; 43 U.S.C. 869), as amended, and the regualtions thereunder Title 43 Code of Federal Regulations (CFR) 2740 and 2912:

Tract	Legal description	Acres
GE–1	T. 5 N., R. 24 W., I.M., sec. 34: SW¼SE¼..	40
HM–1	T. 1 N., R. 24 W., I.M., sec. 12: NW¼SE¼ and NE¼SW¼..	80
HM–4	T. 4 N., R. 24 W., I.M., sec. 6: NE¼SE¼..	40
TL–1	T. 1 N., R. 19 W., I.M., sec. 1: NE¼SW¼..	40

Aggregating 200.00 acres.

The subject lands are needed by the Oklahoma Department of Wildlife Conservation for the enhancement of wildlife habitat and recreation. The classification of the subject lands will segregate them from all appropriation, except as to application under the mineral leasing laws and the Recreation

and Public Purposes Act. Segregation will terminate upon issuance of a patent or eighteen months from the date of this notice; or upon publication of a notice of termination, whichever occurs first.

Comments: For a period of 45 days after the date of publication of this Notice in the **Federal Register**, all persons who wish to submit comments may do so in writing to the District Manager, Bureau of Land Management, 9522–H East 47th Place, Tulsa, Oklahoma, 74145. Objections will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

FOR FURTHER INFORMATION CONTACT: Hans Sallani, Oklahoma Resource Area Headquarters, telephone 405–231–5491.

Dated: November 26, 1986.

Johnnie L. Hart,

Acting District Manager.

[FR Doc. 86–27995 Filed 12–12–86; 8:45 am]

BILLING CODE 4310–FB–M

[NM–010–3110–10–7202]

Albuquerque District, NM; Realty Action of Proposed BLM/State Land Exchange in Torrance and Cibola Counties, NM

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action on Proposed BLM/State Land Exchange (NM 65251).

SUMMARY: This notice is to advise that the following described 29,081.98 acres of Federal surface and subsurface estate has been determined to be suitable for disposal by exchange to the New Mexico State Land Office under section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716, Sec. 104 of the San Juan Basin Wilderness Protection Act of 1984, 98 Stat. 3156, or sec. 504(a) of the Chaco Culture National Historical Park Act, 94 Stat. 3228.

T. 1N., R. 13E.,
Sec. 3, Lots 1 through 4.
T. 1N., R. 15E.,
Sec. 4, SW¼;
Sec. 5, Lots 1 and 2, S½NE¼, NW¼SW¼, N½SE¼, SE¼SE¼;
Sec. 6, Lots 1 through 3, S½NE¼, SE¼NW¼, NE¼SW¼, NW¼SE¼;
Sec. 7, N½NE¼, SE¼NE¼, NE¼NW¼;
Sec. 14, All.
T. 2N., R. 11E.,
Sec. 3, E½NE¼, N½NW¼, SW¼NW¼;
Sec. 4, NW¼NE¼;
Sec. 21, NE¼SE¼.
T. 2N., R. 12E.,
Sec. 3, S½NW¼;
Sec. 13 E½NE¼, SW¼NW¼.
T. 2N., R. 14E.,
Sec. 2, Lots 2 through 4, SW¼NW¼;
Sec. 6, E½SW¼;
Sec. 22, SE¼SE¼;
Sec. 23, N½NE¼, SW¼, NW¼SE¼;
Sec. 24, N½N½, SE¼NE¼.
T. 2N., R. 15E.,
Sec. 1, S½;
Sec. 11, All;
Sec. 30, E½SW¼;
Sec. 31, Lots 1 through 4, E½, E½W½;
Sec. 33, All;
T. 3N., R. 10E.,
Sec. 3, SW¼SW¼;
Sec. 4, E½SE¼;
Sec. 8, S½SW¼;
Sec. 9, NW¼SW¼, S½SW¼, SW¼SE¼.
T. 3N., R. 11E.,
Sec. 14, S½;
Sec. 15, S½;
Sec. 19, Lot 3;
Sec. 25, N½NE¼, NE¼NW¼, SE¼SW¼;
Sec. 27, W½NW¼;
Sec. 31, E½NE¼;
Sec. 33, SW¼SE¼.
T. 3N., R. 13E.,
Sec. 3, Lots 1 through 4, SW¼NE¼, S½NW¼, SW¼, NW¼SE¼;
Sec. 6, Lots 6 and 7;
Sec. 7, Lots 1 and 2;
Sec. 9, SE¼;
Sec. 10, S½NE¼, S½;
Sec. 11, SW¼NW¼, W½SW¼;
Sec. 13, SE¼NE¼, SW¼NW¼, NW¼SW¼, NE¼SE¼;
Sec. 14, All;
Sec. 15, All;
Sec. 17, E½, E½SW¼, SW¼SW¼;
Sec. 18, SE¼SE¼;
Sec. 19, E½NE¼;
Sec. 20, N½, E½SW¼, SE¼;
Sec. 21, Lots 16 through 19, N½, N½S½;
Sec. 22, Lot 7, N½, N½S½, SE¼SW¼, S½SE¼;
Sec. 23, All;
Sec. 24, NW¼;
Sec. 26, NW¼NE¼, N½NW¼;
Sec. 27, NE¼NE¼, NW¼NW¼, NW¼SW¼;
Sec. 28, Lot 1 through 5;
Sec. 29, Lot 1, NW¼NE¼, W½SE¼.
T. 3N., R. 14E.,
Sec. 21, NW¼SW¼, S½SW¼.
T. 4N., R. 13E.,
Sec. 24, SE¼SW¼, NE¼SE¼, S½SE¼.
T. 5N., R. 12E.,
Sec. 6, Lot 2;
Sec. 18, Lots 1 and 2, 15 and 16.
T. 5N., R. 13E.,
Sec. 18, Lot 4.
T. 5N., R. 4E.,
Sec. 2, SE¼SW¼;
Sec. 5, Lot 1;
Sec. 11, SE¼NE¼, SE¼SE¼;
Sec. 12, S½NW¼, NW¼SW¼;
Sec. 13, NE¼SE¼;
Sec. 14, NW¼SE¼;
Sec. 26, SW¼.
T. 5N., R. 15E.,
Sec. 24, N½, S½SW¼.
T. 6N., R. 11E.,
Sec. 8, SE¼SW¼;
Sec. 11, All;
Sec. 13, NW¼;
Sec. 14, All;
Sec. 15, E½, E½SW¼;
Sec. 17, All;
Sec. 20, E½, N½NW¼, SE¼NW¼, SW¼;
Sec. 21, NE¼, E½NW¼, SW¼NW¼;
Sec. 28 NW¼;
Sec. 30, Lots 1 and 2, E½NW¼.
T. 6N., R. 15E.,
Sec. 3, SE¼NE¼, SE¼NW¼;
Sec. 6, Lots 4 and 5;
Sec. 12, SE¼;
Sec. 28, NW¼SW¼;
Sec. 30, SW¼SE¼;
Sec. 32, SE¼SE¼.
T. 7N., R. 11E.,
Sec. 19, Lots 1 through 4, E½W½, SE¼;
Sec. 23, E½, W½W½;
Sec. 27, E½, N½SW¼;
Sec. 34, NE¼, N½SE¼.
T. 7N., R. 14E.,
Sec. 14, SE¼;
Sec. 22, NE¼SW¼, N½SE¼;
Sec. 25, NW¼NW¼, W½SW¼;
Sec. 26, N½NE¼, SW¼NE¼, NE¼SW¼, S½SE¼;
Sec. 34, E½SE¼.
T. 7N., R. 15E.,
Sec. 13, SW¼NW¼;
Sec. 14, NE¼SW¼, NW¼SE¼;
Sec. 17, SW¼;
Sec. 18, SE¼, E½SW¼;
Sec. 19, NE¼;
Sec. 22, SE¼NE¼, NE¼SE¼;
Sec. 27, W½W½, SE¼SW¼;
Sec. 28, NE¼, NE¼SE¼.
T. 8N., R. 9E.,
Sec. 11, SW¼NW¼, W½SW¼;
Sec. 13, SW¼NE¼, W½SE¼;
Sec. 14, SW¼NE¼, W½NW¼, NW¼SW¼;
Sec. 23, SW¼NE¼, SE¼NW¼, E½SW¼, W½SE¼, SE¼SE¼;
Sec. 24, NW¼NE¼;
Sec. 25, All;
Sec. 27, NE¼NW¼, S½NW¼.
T. 8N., R. 10E.,
Sec. 1, Lots 1 through 4, S½N½, S½;
Sec. 6, Lots 5 through 7, Lot 16, Lot 19;
Sec. 7, Lots 15 and 16;
Sec. 8, NE¼NE¼;
Sec. 14, All;
Sec. 18, Lots 5 and 6, Lots 13 through 15;
Sec. 19, Lots 1 and 2, Lots 9 through 12, Lots 19 and 20;
Sec. 14, All;
Sec. 27, All;
Sec. 30, Lots 3 through 8, Lots 13 through 16;
Sec. 31, Lots 1 through 10, Lots 13 and 14, Lot 21;
Sec. 33, Lots 3 and 4;
Sec. 34, Lots 2 through 7;
Sec. 35, Lots 7 and 8.
T. 9N., R. 9E.,
Sec. 3, SE¼SE¼;
Sec. 8, SW¼SE¼;
Sec. 11, NE¼.
T. 9N., R. 10E.,
Sec. 2, NW¼SW¼;
Sec. 3, N½SE¼;
Sec. 12, W½E½, E½W½;
Sec. 15, NW¼NW¼, W½SW¼;
Sec. 22, N½N½;
Sec. 27, E½NE¼, SE¼SE¼;
Sec. 35, NW¼.

In exchange for the Federal surface and subsurface estate, the United States has selected approximately 28,587.50 acres of State surface and subsurface estate within El Malpais Special Management Area south of Grants, New Mexico as listed below:

New Mexico Principal Meridian

T. 9N., R. 9W.,
Sec. 32, All.
T. 10N., R. 9W.,
Sec. 16, All;
Sec. 32, All.
T. 7N., R. 10W.,
Sec. 2, Lots 1 through 4, S½N½, S½.
T. 8N., R. 10W.,
Sec. 32, All.
T. 9N., R. 10W.,
Sec. 2, Lots 1 through 3, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 16, All;
Sec. 32, All;
Sec. 36, All.
T. 10N., R. 10W.,
Sec. 2, Lots 1 through 3, S½NE¼, NE¼SE¼, S½SE¼;
Sec. 24, W½;
Sec. 36, All.
T. 7N., R. 11W.,
Sec. 2, Lots 1 through 4, S½N½, S½;
Sec. 16, All;
Sec. 26, S½;
Sec. 32, All;
Sec. 34, All;
Sec. 36, All.
T. 8N., R. 11W.,
Sec. 2, Lots 1 through 4, S½N½, S½;
Sec. 16, All;
Sec. 32, All;
Sec. 36, All.
T. 6N., R. 12W.,
Sec. 2, Lots 1 through 4, S½N½, S½;
Sec. 16, All;
Sec. 32, All;
Sec. 36, All.
T. 7N., R. 12W.,
Sec. 2, Lots 1 through 4, S½N½, S½;
Sec. 16, All;
Sec. 18, Lots 3 and 4, E½SW¼;
Sec. 32, All;
Sec. 36, All.
T. 8N., R. 12W.,
Sec. 2, Lots 1 through 4, S½N½, S½;
Sec. 16, All;
Sec. 32, All;
Sec. 36, All.
T. 6N., R. 13W.,
Sec. 2, Lots 1 through 4, S½N½, S½;
Sec. 16, All;
Sec. 32, All;
Sec. 36, All.
T. 7N., R. 13W.,
Sec. 2, Lots 1 through 4, S½N½, S½;
Sec. 16, All;
Sec. 32, All;
Sec. 36, All.
T. 8N., R. 13W.,
Sec. 2, Lots 1 through 4, S½N½, S½;
Sec. 12, SW¼SW¼, SW¼SE¼;
Sec. 24, N½NW¼;
Sec. 32, All;
Sec. 36, All.
T. 9N., R. 13W.,
Sec. 36, All.

Upon completion of the final appraisal, the actual acreage exchanged will be adjusted to reflect equal values as much as possible. Additional State land within the De-Na-Zin Wilderness Area, the Chaco Culture National Historic Park, or within areas of well blocked public lands within the Rio Puerco Resource Area may be acquired by exchange.

The purpose of this exchange is to consolidate land ownerships for the federal government within the El Malpais Special Management Area, the De-Na-Zin Wilderness Area, the Chaco Culture National Historic Park, or well blocked areas within the Rio Puerco Resource Area. In addition, it would also consolidate the State's ownership in Torrance County. This action is consistent with land ownership adjustments as set forth in the Record of Decision for the Rio Puerco Resource Management Plan approved January 16, 1986, other appropriate planning documents, and legislation enactments previously cited.

The purpose of this Notice of Realty Action is two-fold. First, this notice will provide a response period during which public comments will be accepted regarding this exchange proposal. Secondly, this action as provided in 43 CFR 2201.1(b), shall segregate the public lands described in this notice from the operation of the public land laws, including the mining and mineral leasing laws subject to prior existing rights. The segregation shall terminate upon issuance of a conveyance document or the expiration of two years from the date of this publication, whichever occurs first.

SUPPLEMENTARY INFORMATION: Detailed information concerning the exchange is available at the Albuquerque, District Office, 435 Montano NE., Albuquerque, NM 87107.

For a period of forty-five (45) days after publication of this notice interested parties may submit comments to the District Manager at the above address.

Dated: December 8, 1986.

L. Paul Applegate,

District Manager.

[FR Doc. 86-27971 Filed 12-12-86; 8:45 am]

BILLING CODE 4310-FB-M

Fish and Wildlife Service

Arctic National Wildlife Refuge, AK; Draft Resource Assessment and Legislative Environmental Impact Statement; Public Hearings

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of public hearings.

SUMMARY: This notice announces the dates and times of public hearings that will be held in Washington, DC, and Anchorage and Kaktovik, Alaska, on the Draft Arctic NWR, Alaska, Coastal Plain Resource Assessment and Legislative Environmental Impact Statement (16 U.S.C. 3142).

DATE: Anchorage, AK—January 5, 1987—9:00 a.m.; Kaktovik, AK—January 6, 1987—7:00 p.m.; Washington, DC—January 9, 1987—1:30 p.m.

ADDRESSES: Anchorage, AK—Egan Civic and Convention Center, 555 W. Fifth Avenue; Kaktovik, AK—City Council Chambers; Washington, DC—Main Interior Building Auditorium, 18th and C Streets, NW.

FOR FURTHER INFORMATION CONTACT: Clay Hardy, U.S. Fish and Wildlife Service, Division of Planning, 1011 E. Tudor Road, Anchorage, Alaska 99503, (907) 786-3388.

Dated: December 10, 1986.

Frank H. Dunkle,

Director.

[FR Doc. 86-28048 Filed 12-12-86; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

Development Operations Coordination Document

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development operations coordination document (DOCD).

SUMMARY: Notice is hereby given that Exxon Company, U.S.A. has submitted a DOCD describing the activities it proposes to conduct on Leases OCS-G 1201, 1204, and 1205, Blocks 69, 72, and 73, respectively, South Marsh Island Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Intracoastal City, Louisiana.

DATE: The subject DOCD was deemed submitted on December 5, 1986.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Wholesalers Pkwy., Room 114, New Orleans, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans,

Platform and Pipeline Section, Exploration/Development Plans Unit; Phone (504) 736-2867.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: December 8, 1986.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 86-27993 Filed 12-12-86; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development operations coordination document (DOCD).

SUMMARY: Notice is hereby given that FMP Operating Company has submitted a DOCD describing the activities it proposes to conduct on Leases OCS 0842, Block 105, West Delta Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Venice, Louisiana.

DATE: The subject DOCD was deemed submitted on December 3, 1986.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Wholesalers Pkwy., Room 114, New Orleans, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Phone (504) 736-2867.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: December 3, 1986.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 86-27996 Filed 12-12-86; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development operations coordination document (DOCD).

SUMMARY: Notice is hereby given that FMP Operating Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 5195, Block 226, Vermilion Areas, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Intracoastal City, Louisiana.

DATE: The subject DOCD was deemed submitted on December 2, 1986. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the plan from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico Region, Minerals Management Service, 1201 Wholesalers Pkwy., Room 114, New Orleans, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, Attention OCS Plans, Post Office Box 44487, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Ms. Angie D. Gobert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section; Exploration/Development Plans Units, Phone (504) 736-2876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685).

Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: December 5, 1986.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 86-27997 Filed 12-12-86; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Minerals Management Plan; Lake Mead National Recreation Area; Intent To Prepare an Environmental Impact Statement

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act (Pub. L. 91-190 as amended), the National Park Service, Department of the Interior, will prepare an Environmental Impact Statement, in conjunction with a Minerals Management Plan, to assess the potential impacts of mineral leasing and development within the Lake Mead National Recreation Area, Arizona and California.

Lake Mead is one of five National Recreation Areas managed by the National Park Service that is open to

mineral leasing and development if specified resources protection and administrative objectives can be met. Currently, there is no minerals management plan for Lake Mead and leases had been approved on a case by case basis until 1983, when a moratorium was placed on leasing until a minerals management plan could be prepared. The Plan will provide specific policy and implementation guidance that can be applied in an effective and consistent manner to assure fairness to leading applicants and provide for protection of the National Recreation Area resources. The Plan will utilize the management zoning, contained in the recently completed General Management Plan for the Lake Mead National Recreation Area, and concentrate on the special use zones where more intensive uses such as mineral leasing can be considered. Because the Plan prescriptions may have the potential for significant impacts, thus constituting a major Federal action significantly affecting the quality of the human environment, the preparation of an EIS is deemed appropriate.

Federal, State and local agencies, and other individuals or organizations who may be interested in, or affected by future minerals management activity at the Lake Mead National Recreation Area, are invited to participate in refining or identifying issues to be considered. Written comments and suggestions concerning preparation of the Mineral Management Plan and EIS should be sent to: Superintendent, Lake Mead National Recreation Area, 601 Nevada Highway, Boulder City, Nevada 89005, by January 30, 1987. Questions on this matter should also be directed to the same address. Howard H. Chapman, Regional Director for the Western Region in San Francisco, California, is the responsible official.

Preparation of the Minerals Management Plan and EIS is expected to take about 20 months. The draft Plan and EIS should be available for public review by late summer 1987. A final Plan and EIS will be prepared after considering comments received on the drafts. The final Plan and EIS, along with a Record of Decision, is expected by summer 1988.

Dated: December 3, 1986.

W. Lowell White,

Acting Regional Director, Western Region, National Park Service.

[FR Doc. 86-28042 Filed 12-12-86; 8:45 am]

BILLING CODE 4310-70-M

Office of Surface Mining Reclamation and Enforcement

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Bureau clearance officer and to the Office of Management and Budget Interior Deaprtment Desk Officer, Washington, DC 20503, telephone 395-7313.

Title: State Processes for Designating Areas Unsuitable for Surface Coal Mining Operations 30 CFR Part 764

Abstract: This Part establishes the minimum requirements for designating areas as unsuitable for all or certain types of surface coal mining operations. The information requested will aid the regulatory authority in the decision-making process to approve or disapprove a request to designate or terminate an area as unsuitable. This information will also be used to maintain the detabase and inventory system.

Bureau Form Number: None
Frequency: On occasion
Description of Respondents: Indivisuals and/or Industry
Annual Responses: 5
Annual Burden Hours 809
Bureau Clearance Officer: Darlene Grose Boyd 343-5447.

Dated: November 7, 1986.

Donald L. Hinderliter,

Acting Assistant Director, Budget and Administration.

[FR Doc. 86-27992 Filed 12-12-86; 8:45 am]

BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

[Section 5a Application No. 79]

Hawaii Freight Tariff Bureau, Inc.; Agreement

AGENCY: Interstate Commerce Commission.

ACTION: Cancellation of rate bureau agreement and revocation of antitrust immunity.

SUMMARY: Hawaii Freight Tariff Bureau, Inc.'s (HFTB) pending application for continued approval of its collective ratemaking agreement is dismissed and its antitrust immunity is revoked. This action is being taken pursuant to the Surface Freight Forwarder Deregulation Act of 1986 (Act), Pub. L. 99-521, effective December 21, 1986, which eliminated Commission jurisdiction over non-household goods freight forwarders.

DATE: This decision will take effect on December 21, 1986, unless, prior to that time, HFTB informs us in writing that its membership presently consists of more than one household goods freight forwarder that requires continued antitrust immunity.

FOR FURTHER INFORMATION CONTACT:

Paul W. Schach, (202) 275-7885

or

Louis E. Gitomer, (202) 275-7691.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll-free (800) 424-5403.

This action will not significantly affect either the quality of the environment or the conservation of energy resources.

Authority: Pub. L. 99-521, 49 U.S.C. 10321 and 10706, and 5 U.S.C. 553.

Decided: December 5, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

Noreta R. McGee,

Secretary.

[FR Doc. 86-27967 Filed 12-12-86; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30943]

Missouri Pacific Railroad Co.; Merger, the Great Southwest Railroad Co.; Exemption

The Missouri Pacific railroad Company (MP) and its wholly owned subsidiary Great Southwest Railroad Company (GSW) [1] have filed a notice of

[1] MP's acquisition of sole control of GSW was exempted from regulation in Finance Docket No. 30704, *Missouri Pacific R. Co.—Contr. Exemp.—Great S.W. R. Co.* (not printed), served October 18, 1985. GSW's directors own qualifying shares only, which will be surrendered upon consummation.

exemption to merge GSW into MP, on or after November 20, 1986.

This is a transaction within a corporate family of the type specifically exempted from necessity of prior review and approval under 49 CFR 1180.2(d)(3). It will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family.

Use of this exemption is subject to the employee protective conditions in *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979) (*New York Dock*). In consideration of the pending complaint in finance Docket No. 30853, *L.A. Rowlett, Jr.* v. *Missouri Pac. R. Co.*, MP has stipulated to a March 1, 1986, effective date for the *New York Dock* conditions. [2]

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: Colleen A. Lamont, Assistant General Attorney, 1416 Dodge Street, Omaha, NE 68179.

Dated: December 5, 1986.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 86-27968 filed 12-12-86; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-55; Sub-No. 188X]

Railroad Services; CSX Transportation, Inc.; Exemption; Abandonment in Levy County, FL

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of 49 U.S.C. 10903, *et seq.*, the abandonment by CSX Transportation, Inc. of approximately 2.88 miles of rail line between milepost SR-735.07, at or near Montbrook, and milepost SR-737.95, at or near Morriston, in Levy County, FL, subject to conditions for protection of employees.

DATES: This exemption will be effective on January 15, 1987. Petitions to stay must be filed by December 26, 1986, and petitions for reconsideration must be filed by January 5, 1987.

ADDRESSES: Send pleadings referring to Docket No. AB-55 (Sub-No. 188X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

(2) Lawrence H. Richmond, 100 North Charles Street, Baltimore, MD 21201.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the rail decision write to: T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

Decided: December 8, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

Noreta R. McGee,

Secretary.

[FR Doc. 86-28024 Filed 12-12-86; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-55; Sub-No. 184X]

Railroad Services; CSX Transportation, Inc.; Exemption; Abandonment in Manatee County, FL

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commisison exempts from prior approval under 49 U.S.C. 10903, *et seq.*, the abandonment by CSX Transportation, Inc., of 0.33 miles of track in Manatee County, FL, subject to standard labor protection conditions.

DATES: This exemption is effective on January 15, 1987. Petitions to stay must be filed by December 26, 1986, and petitions for reconsideration must be filed by January 5, 1987.

ADDRESSES: Send pleadings referring to Docket No. AB-55 (Sub-No. 184X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representative: Charles M. Rosenberger, 500 Water Street, Jacksonville, FL 32202

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289-4357 (DC Metropolitan area), or toll-free (800) 424-5403.

Decided: December 8, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

Noreta R. McGee,

Secretary.

[FR Doc. 86-28023 Filed 12-12-86; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to Clean Air Act; Michael Jackson et al.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on December 5, 1986, a proposed consent decree in *United States* v. *Michael Jackson et al.*, Civil Action No. 86-0128, was lodged with the United States District Court for the District of Columbia. The complaint filed by the United States alleged violations of the Clean Air Act and the National Emission Standards for Hazardous Air Pollutants (NESHAP) for asbestos. Specifically, the complaint alleged that the defendants failed to comply with the asbestos NESHAP during the removal of asbestos from a Veterans Cooperative Housing Association-owned building located at 2806 Terrace Road SE., Washington, DC. The complaint sought injunctive relief to require the defendants to comply with the Clean Air Act and the NESHAP for asbestos and civil penalties for past violations. The decree requires defendants to comply with the Clean Air Act and the NESHAP for asbestos in the future and imposes a $14,000 civil penalty for past violations of the Act and regulations.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Michael Jackson et al.*, Department of Justice Reference #90-5-2-1-882.

Copies of the proposed consent decree may be examined at the following locations: Office of the United States Attorney, United States Courthouse, 3rd & Constitution Avenue, NW., Washington, DC 20001; the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1535, Ninth Street & Pennsylvania NW., Washington, DC 20530; and, the Region III Office of the United States

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[2] The complaint alleges that GSW employees have been adversely affected because MP and GSW consummated the merger on March 1, 1986. MP denies the allegation of premature consummation.

Environmental Protection Agency, 841 Chestnut Street, Philadelphia, PA 19107. A copy of the proposed consent degree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. When requesting a copy, please refer to *United States* v. *Michael Jackson et al.*, Department of Justice Reference #90–5–2–1–882.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 86–28008 Filed 12–12–86; 8:45 am]
BILLING CODE 4410–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–264]

Dow Chemical Co.; Consideration of Application for Renewal of Facility Operating License at Increased Power Level

The United States Nuclear Regulatory Commission (the Commission) is considering renewal, at an increased power level, of Facility Operating License No. R–108, issued to the Dow Chemical Company for operation of the Dow TRIGA Research Reactor located at the Dow research facilities in Midland, Michigan.

The amendment to Facility Operating License No. R–108 would authorize an increase in the maximum power level of the reactor from 100 kW (thermal) to 300 kW (thermal) and would extend the expiration date of the license for twenty years from the date of issuance, in accordance with the licensee's timely application for renewal dated November 14, 1986.

Prior to a decision to renew the license, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

By January 14, 1987, the licensee may file a request for a hearing with respect to renewal of the subject facility license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition, and the Secretary of the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the basis for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the renewal action under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, or may be delivered to the Commission's Public Document Room, at 1717 H Street NW., Washington, DC by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Herbert N. Berkow: (petitioner's name and telephone number); (date petition was mailed); (Dow Chemical Company); and (publication date and page number of this **Federal Register** notice). A copy of the petition should also be sent to the Office of the General Counsel-Bethesda, U.S. Nuclear Regulatory Commission, Washington, DC 20555 and to John Gray, The Dow Chemical Company, 2030 Building, Midland, Michigan 48674, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission or the presiding officer of the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for renewal dated November 14, 1986, which is available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, DC 20555.

Dated at Bethesda, Maryland this 9th day of December, 1986.

For the Nuclear Regulatory Commission.

Herbert N. Berkow,

Director Standardization and Special Projects Directorate Division of PWR Licensing-B Office of Nuclear Reactor Regulation.

[FR Doc. 86–28053 Filed 12–12–86; 8:45 am]
BILLING CODE 7590–01–M

[Docket No. 50–334]

Duquesne Light Co.; Beaver Valley Power Station Unit 1; Exemption

I

The Duquesne Light Company (DLC, the licensee) is the holder of Operating License No. DPP–66 which authorizes operation of the Beaver Valley Power Station, Unit 1. The license provides, among other things, that Beaver Valley Power Station, Unit 1 be subject to all

rules, regulations, and Orders of the Commission now or hereafter in effect.

The plant is a pressurized water reactor at the licensee's site located in Shippingport, Pennsylvania.

II

On November 19, 1980, the Commission published a revised Section 50.48 and a new Appendix R to 10 CFR Part 50 regarding fire protection features of nuclear power plants. The revised § 50.48 and Appendix R became effective on February 17, 1981. Section III of Appendix R contain 15 subsections, lettered A through O, each of which specifies requirements for a particular aspect of the fire protection features at a nuclear power plant. One of these subsections, III.G, is the subject of the licensee's exemption requests.

Subsection III.G.2 of Appendix R requires that one train of cables and equipment necessary to achieve and maintain hot shutdown conditions be maintained free of fire damage by one of the following means:

a. Separation of cables and equipment and associated nonsafety circuits of redundant trains by a fire barrier having a 3-hour rating. Structural steel forming a part of or supporting such fire barriers shall be protected to provide fire resistance equivalent to that required of the barrier.

b. Separation of cables and equipment and associated nonsafety circuits of redundant trains by a horizontal distance of more than 20 feet with no intervening combustibles or fire hazards. In addition, fire detectors and an automatic fire suppression system shall be installed in the fire area.

c. Enclosure of cable and equipment and associated nonsafety circuits of one redundant train in a fire barrier having a 1-hour rating. In addition, fire detectors and an automatic fire suppression system shall be installed in the fire area.

Subsection III.G.3 of Appendix R requires that where Subsection III.G.2 cannot be met, alternative or dedicated shutdown capability should be provided. For areas where alternative or dedicated shutdown is provided, fire detection and a fixed fire suppression system shall also be installed in the area, room, or zone under consideration.

III

By letter dated June 30, 1982, the licensee requested exemptions from specific technical requirements of Appendix R to 10 CFR Part 50. On March 14, 1983, the NRC granted the requested exemptions. By letter dated December 16, 1983, the licensee requested additional exemptions for nine fire areas. With the exception of the exemption concerning structural steel, these exemptions were granted on August 30, 1984.

By letter dated, January 14, 1985 and supplemented by letters dated October 16, 1985, and October 28, 1986, the licensee requested five additional exemptions. These additional exemption requests concerned the fire doors, fire dampers, charging pump cubicles, control room, and main steam valve room. These additional exemption requests are the subject of this evaluation.

The following list of exemption requests reflects the latest status:

1. Fire doors for twenty-four fire areas. Exemptions were requested from the technical requirements of Section III.G.2.a to the extent that the five door assemblies in the 3-hour fire-rated barriers that separate that areas are not UL-listed for 3 hours.

Section III.G.2 of Appendix R to 10 CFR Part 50 contains requirements for the protection of hot shutdown components located within the same fire area. It does not apply to fire area boundaries. Acceptable guidelines for establishment of fire area boundaries are set forth in Section D.1.(j) of Appendix A to BTP APCSB 9.5–1. Therefore, the staff has reviewed the fire doors discussed in the Licensee's request for conformance with Appendix A guidelines.

2. Charging pump cubicles. An exemption was requested from the technical requirements of Section III.G.2.b to the extent that the redundant charging pumps are not separated from each other by at least 20 feet of horizontal distance free of intervening combustibles and to the extent that an automatic fire suppression system is not provided.

3. Control Room (Fire Zones CR–1 and CR–2). An exemption was requested from the technical requirements of Section III.G.2.b to the extent that redundant trains of emergency diesel generator circuits and power cables are not separated from each other by at least 20 feet of horizontal distance free of intervening combustibles and to the extent that an automatic fire suppression system is not installed.

4. Main Steam Valve Room (Fire Area MS–1). An exemption was requested from the technical requirements of Section III.G.2.a to the extent that redundant safe shutdown valves are not separated from each other by 3-hour rated fire barriers.

5. Fire Dampers. Exemptions were requested from Section III.G.2.a to the extent that it requires separation of cables and equipment and associated nonsafety circuits of redundant trains by a fire barrier having a 3-hour rating.

Section III.G.2 of Appendix R contains requirements for fire protection within fire areas. It does not apply to fire area boundaries. Acceptable guidelines for the establishment of fire area boundaries are set forth in Section D.1.(j) of Appendix A to BTP APCSB 9.5–1. Therefore, the staff has reviewed the affected fire dampers for conformance with Appendix A guidelines.

In summary, the exemptions were requested from separating redundant trains by 3-hour fire barriers, or from separating redundant trains by 20 feet of horizontal distance free of intervening combustibles and providing automatic fire suppression system as required by Section III.G of Appendix R.

Based on the review of the licensee's analysis, the staff concluded that:

- The separation of redundant trains of charging pumps by more than 20 feet of horizontal distance free of intervening combustibles in the adjacent corridor and the installation of automatic fire suppression systems would not significantly increase the level of fire protection in the charging pump cubicles. Therefore, the requested exemption can be granted.
- The separation of redundant trains of emergency diesel generator circuits in Fire Zones CR–1 and CR–2 by more than 20 feet of horizontal distance free of intervening combustibles and the installation of automatic fire suppression systems would not significantly increase the level of the fire protection in these fire zones. Therefore, the requested exemptions can be granted.
- The separation of redundant valves in the main steam valve room by 3-hour fire-rated barriers would not significantly increase the level of fire protection in this area. Therefore, the requested exemptions can be granted.

By letter dated October 28, 1986, the licensee provided information relevant to the "special circumstances" finding required by revised 10 CFR 50.12(a) (see 50 FR 50764). The licensee stated that existing and proposed fire protection features at Beaver Valley Power Station Unit 1 accomplished the underlying purpose of the rule. Implementing additional modifications to provide additional suppression systems, detection systems, and fire barriers would require the expenditure of engineering and construction resources as well as the associated capital costs which would represent an unwarranted burden on the licensee's resources. The

licensee stated that the cost to be incurred are as follows:

1. Fire doors, $757,000.
2. Charging pump cubicles, $7,770,000.
3. Control room, $976,000.
4. Main steam valve room, $1,268,000.
5. Fire dampers, $1,723,000.

The licensee stated that these costs are significantly in excess of those required to meet the underlying purpose of the rule. The staff concludes that "special circumstances" exist for the licensee's requested exemptions in that application of the regulation in these particular circumstances is not necessary to achieve the underlying purposes of Appendix R to 10 CFR Part 50. See 10 CFR 50.12(a)(2)(ii).

IV

Accordingly, the Commission has determined that pursuant to 10 CFR 50.12(a), (1) these exemptions as described in Section III are authorized by law and will not present an undue risk to the public health and safety and are consistent with common defense and security, and (2) special circumstances are present for the exemptions in that application of the regulation in these particular circumstances is not necessary to achieve the underlying purposes of Appendix R to 10 CFR Part 50. Therefore, the Commission hereby grants the following exemptions for three items mentioned in Section III above from the requirements of Section III.G of Appendix R to 10 CFR Part 50:

2. Charging Pump Cubicles, to the extent that redundant pumps are not separated by a horizontal distance of more than 20 feet with no intervening combustibles or fire hazards in the adjacent corridor and that automatic fire suppression systems are not installed pursuant to III.G.2.b.

3. Control Room (Fire Zones CR–1 and CR–2), to the extent that reduntant trains of safe shutdown cables are not separated by a horizional distance of more than 20 feet with no intervening combustibles or fire hazards and that automatic fire suppressions systems are not installed pursuant to III.G.2.b.

4. Main Steam Valve Room (Fire Area MS–1), to the extent that redundant trains of equipment are not separated by 3-hour fire-rated barriers pursuant to III.G.2.a.

Based on the evaluation, the staff also concludes that item 1 is an acceptable deviation from the guidelines of Appendix A to BTP APCSB 9.5–1:

1. Twenty-four fire areas, to the extent that fire door assemblies separating safe shutdown areas are not 3-hour-rated.

Item 5, fire damper design, is not an acceptable deviation; details may be found in the safety evaluation mentioned below.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of these exemptions will have no significant impact on the environment (51 FR 43790, December 4, 1986).

A copy of the safety evaluation dated November 1986, related to this action is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC and at the local public document room located at B.J. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001. A copy may be obtained upon written request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555. Attention: Director, Division of PWR Licensing–A.

This Exemption is effective upon issuance.

Dated at Bethesda, Maryland this 4th day of December, 1986.

For the Nuclear Regulatory Commission.

Thomas M. Novak,

Acting Director, Division of PWR Licensing–A, Office of Nuclear Reactor Regulation.

[FR Doc. 86–28054 Filed 12–12–86; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Taiwan Beer, Wine and Tobacco Products Unfair Trade Case

AGENCY: Office of the United States Trade Representative.

ACTION: Termination of proceeding.

SUMMARY: On October 27, 1986, the President determined that acts, policies and practices by the authorities on Taiwan regarding the distribution and sale in Taiwan of U.S. beer, wine and tobacco products are unjustifiable, unreasonable or discriminatory and a burden or restriction on United States commerce. He directed the U.S. Trade Representative to propose appropriate and feasible actions. However, on December 5 Taiwan agreed to cease the unfair trade practices complained of. Therefore, no retaliatory action will be proposed as earlier directed by the President.

EFFECTIVE DATE: December 5, 1986.

FOR FURTHER INFORMATION CONTACT: Sandra Kristoff, Deputy Assistant U.S. Trade Representative for Asia and the Pacific, Office of the U.S. Trade Representative, 600 17th St. NW., Washington, DC 20507, (202) 395–4755.

SUPPLEMENTARY INFORMATION: On October 27, 1986, under section 301 of the Trade Act of 1974, as amended (19 U.S.C. 2411), the President determined that acts, policies and practices by the authorities on Taiwan were unjustifiable, unreasonable or discriminatory and a burden or restriction on United States commerce (51 FR 39639). However, Taiwan subsequently agreed to cease the unfair trade practices complained of. For example, it will lift its ban on the importation of beer; no longer require the retail price of foreign beer, wine and tobacco products to be marked up at a higher rate than that applied to domestic products; and allow U.S. products to be sold at all retail outlets where Taiwanese products are sold. Since this dispute has been settled to the satisfaction of our government, no further action under section 301 is planned in this matter.

Judith Hippler Bello,

Chairman, Section 301 Committee.

[FR Doc. 86–27969 Filed 12–12–86; 8:45 am]

BILLING CODE 3190–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–23868; File No. SR/CSE–86–6]

Self-Regulatory Organizations; Proposed Rule Change by the Cincinnati Stock Exchange Relating to an Affiliation With the Chicago Board Options Exchange

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on November 18, 1986, The Cincinnati Stock Exchange (the "Exchange") filed with the Securities and Exchange Commission the Proposed Rule Change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the Proposed Rule Change from interested persons.

I. The Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Cincinnati Stock Exchange ("CSE" or the "Exchange") and the Chicago Board Options Exchange ("CBOE") have reached an agreement with respect to an affiliation between the two exchanges. This affiliation gives CBOE members who meet CSE's requirements for membership the ability to become CSE proprietary members

without having to purchase certificates of proprietary membership.[1]

In order to ensure continuity during the initial period of the affiliation, procedures for amending certain provisions of the By-Laws and Rules have been modified. In addition, changes have been made to sections of the By-Laws which address Board structure, certificates of proprietary membership, voting rights, committee powers, and other governance issues. For example, the Board of Trustees will consist of thirteen members, six of whom are elected by the CBOE Board of Directors, three of whom are elected by CSE proprietary members holding certificates of proprietary membership, three of whom are Public Trustees nominated by a special nominating committee and elected by the CSE Board, and the CSE President, who will be a full-time employee of CSE. The amendments also establish the composition of the Securities Committee until the 1989 Board meeting and vest in that committee the authority to promulgate Intermarket Trading System related rules.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the Proposed Rule Change is to incorporate into CSE's By-Laws and Rules those provisions necessary to implement the terms of the affiliation between CSE and CBOE.

The affiliation represents a continuation of CSE's effort to attract new members, to strengthen its marketplace, and to further enhance its already significant inter-member trading in an independent, integrated market center. By affiliating with CBOE, CSE expects to provide more effective market operation, more efficient executions, and enhanced intermarket competition.

Section 6(b)(5) of the Securities Exchange Act of 1934 (the "Act") provides the principal statutory basis for the Proposed Rule Change. The affiliation of CSE and CBOE is expected to remove impediments to and perfect the mechanism of a free and open market and a national market system, and this, in turn, will protect investors and the public interest, as called for in section 6(b)(5). The Proposed Rule Change also meets others requirements of section 6(b)(5) in that it will foster cooperation and coordination with persons engaged in regulating and facilitating transactions in securities.

B. Self-Regulatory Organization's Statement of Burden on Competition

The Exchange believes that the Proposed Rule Change will not impose any burden on competition and should, in fact, enhance competition among exchange markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has neither solicited nor received comments on the Proposed Rule Change from its membership.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such Proposed Rule Change, or

(B) institute proceedings to determine whether the Proposed Rule Change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the Proposed Rule Change that are filed with the Commission, and all written communications relating to the Proposed Rule Change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by January 5, 1987.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: December 9, 1986.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-28061 Filed 12-12-86; 8:45 am]

BILLING CODE 8010-01-M

[1] The Exchange included in its filing a full text of the proposed changes to its rules. Copies of the proposed amendments are available at the Commission and the principal office of the Exchange.

[Release No. 34-23866; File No. SR-NASD-86-29]

Self-Regulatory Organizations: National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change

The National Association of Securities Dealers, Inc. ("NASD") submitted on October 21, 1986, copies of a proposed rule change pursuant to section 19(b) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder to amend Article III, section 28, of its Rules of Fair Practice. The amendment imposes disclosure requirements on NASD members' associated persons who maintain securities accounts with non-NASD members such as investment advisers, banks and other financial institutions.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission release (Securities Exchange Act Release No. 23754, October 28, 1986) and by publication in the **Federal Register** (51 FR 40546, November 7, 1986). No comments were received with respect to the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD and, in particular, the requirements of section 15A, and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Dated: December 8, 1986.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-28006 Filed 12-12-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-23867; File No. SR-NASD-86-28]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change

The National Association of Securities Dealers, Inc. ("NASD") submitted on October 21, 1986, copies of a proposed rule change pursuant to section 19(b) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder to amend its By-Laws to preclude members of the NASD Board of Governors who are absent from Board meetings from voting by proxy on issues before the Board.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission release (Securities Exchange Act Release No. 23752, October 27, 1986) and by publication in the **Federal Register** (51 FR 40545, November 7, 1986). No comments were received with respect to the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD and, in particular, the requirements of section 15A, and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Dated: December 8, 1986.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-28005 Filed 12-12-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-15466; File No. 812-6403]

Application for Exemption under the Investment Company Act of 1940 ("The 1940 Act")

December 8, 1986.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for exemption under the Investment Company Act of 1940 ("the 1940 Act").

Applicants: The Minnesota Mutual Life Insurance Company ("Company"), Minnesota Mutual Variable Life Insurance Account ("Account"), MIMLIC Series Fund, Inc. ("Fund"), and MIMLIC Sales Corporation.

Relevant 1940 Act Sections: Exemption requested *under* section 6(c) *from* sections 2(a)(32), 2(a)(35), 9(a), 13(a), 15(a), 15(b), 22(c), 22(d), 22(e), 26(a), 27(a), 27(c) and 27(d) of the 1940 Act, and Rules 6e-2(b)(1), (b)(12)(i), (b)(13)(i), (b)(13)(ii), (b)(13)(iii), (b)(13)(iv), (b)(13)(v), (b)(15), (c)(1), (c)(4), and 22c-1 thereunder.

SUMMARY OF APPLICATION: Applicants seek an order to permit the offer and sale of certain scheduled premium variable life insurance contracts ("contracts").

Filing Date: The application was filed on June 5, 1986, and amended on November 7, 1986.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on January 2, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Company, Account, Fund, and MIMLIC Sales Corporation, 400 North Robert Street, St. Paul, Minnesota 55101.

FOR FURTHER INFORMATION CONTACT: Financial Analyst Margaret Warnken (202) 272-2058 or Special Counsel Brian Kaplowitz (202) 272-2061 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231-3282 (in Maryland (301) 253-4300).

Applicants' Representations and Arguments:

1. The Company is a mutual life insurance company organized under the laws of Minnesota in 1880. It is authorized to do business in the District of Columbia, certain Canadian provinces, Puerto Rico and in all the United States except New York. The Account, a separate account of the Company, is registered under the 1940 Act as a unit investment trust. The Account satisfies the conditions of Rule 6e-2(a) under the 1940 Act so as to be entitled to the exemptions accorded by Rule 6c-3. MIMLIC Sales, an indirect wholly-owned subsidiary of the Company, is the principal underwriter for the Account.

2. Assets of the Account will be invested in shares of the Fund, a diversified management investment company registered under the 1940 Act. The Fund is a series company consisting currently of four separate portfolios. For each portfolio of the Fund there is a corresponding sub-account of the Account. Shares of each portfolio will be sold without sales charge to the Account and to other separate accounts of the Company.

3. The contracts are scheduled premium variable life insurance contracts similar to a conventional life insurance product known as "adjustable life". The contracts, like conventional adjustable life insurance, permit an owner to select a plan of insurance based on his or her insurance needs and the amount of premium the owner wishes to pay. Based on the owner's selection of any two of three components of a contract—face amount, premium and plan—the Company will calculate the third. Thus, the owner is allowed the flexibility to design a contract to meet his or her specific needs. The flexibility provided by the contracts results in a broad range of plans of insurance. There are two general categories of plans of insurance-whole life plans and term plans. Whole life plans contemplate an eventual cash value accumulation, at or before the insured's age 100, equal to the net single premium required for that face amount of insurance. Term plans of insurance assume an eventual exhaustion of cash value at the end of a specified period. As premiums under term plans are payable for the life of the insured, the contracts provide for a scheduled reduction in face amount at the end of the initial period of coverage to an amount which the continued payment of the scheduled premium will provide on a whole life plan. The contracts may be adapted to the owner's changing needs and objectives subsequent to issue. The owner may change or "adjust" the face amount and premium level, and thus the plan of insurance, subject to certain limitations, so long as the contract remains in force.

The contracts offer a choice of two death benefits-the "cash option" and the "protection option." Under the cash option, the death benefit is the current face amount at the time of the insured's death. The death benefit will not vary unless the contract becomes paid-up. Under the protection option, the death benefit is the current face amount plus

the contract value at the time of the insured's death until the contract becomes paid-up. A contract is paid-up when its contract value is such that no further premiums are required to provide the face amount of coverage for the life of the insured.

The contracts provide for the payment of scheduled premiums either for the life of the insured or, in the case of certain whole life plans, in a designated number or to a designated age. For whole life plans, the contracts at issue must provide for scheduled premiums for at least fifteen years. Additional premiums, called "nonrepeating" premiums, may be permitted in certain circumstances. Net premiums under the contracts will be allocated to sub-accounts of the Account in accordance with instuctions from the owners. The contracts permit an owner to adjust the allocation of the actual cash value among the sub-accounts of the Account by transferring amounts from one sub-account to another.

Absent a contract loan, the contracts will not lapse provided scheduled premiums are paid when due or within the 31 day grace period following the due date. However, if the actual cash value of the contract should decline to zero when there is a contract loan outstanding, the contract will lapse even though all scheduled premiums have been duly paid. In addition, an owner may request a surrender or partial surrender of his or her contract any time while the insured is living.

The contracts provide for four types of adjustment: (i) An increase or decrease in the premium, (ii) an increase or decrease in the face amount, (iii) a partial surrender and (iv) an adjustment to stop premium, which is an adjustment made on the assumption that no further premiums will be paid.

An adjustment will usually result in a change in the contract's plan of insurance. Depending on the adjustment requested, for whole life plans the premium paying period may be lengthened or shortened or the plan may be changed from a whole life plan to a term plan by providing for a scheduled reduction in face amount at a future date. For contracts having a term plan prior to an adjustment, an adjustment may change the contract to a whole life plan by eliminating the scheduled decrease in face amount or it may change the duration of the term plan by changing the time at which the decrease is scheduled to occur.

The contracts provide various limitations and conditions on the right to make adjustments. Moreover, all adjustments resulting in an increase in face amount require proof of insurability except for those made pursuant to a face amount increase agreement or a cost of living rider.

Charges under the contracts are assessed against scheduled and nonrepeating premiums, the contracts' actual cash values and the assets of the Account. Premium charges vary depending on whether the premium is a scheduled premium or a non-repeating premium. From scheduled premiums there is deducted a sales load, an underwriting charge, a premium tax charge, a face amount guarantee charge, and any charges for additional benefits provided by rider. Nonrepeating premiums are subject only to the basic sales load of 7 percent and to the premium tax charge.

A basic sales load of 7 percent is deducted from each scheduled premium and a first year sales load not to exceed 23 percent may also be deducted. Sales load deductions are applied against base premiums less any charge deducted from the contract's actual cash value for sub-standard risks. The first year load will apply only to base premiums scheduled to be paid in the twelve months following the contract date, any adjustment involving an increase in base premium or any adjustment occurring during a period when a first year sales load is being assessed. In computing the first year sales load following a policy adjustment involving an increase in base premium, the charge will be applied only to the amount of the increase in base premium. However, if an adjustment occurs during a period when a first year sales load is being taken, the uncollected portion of such sales load—determined on the basis of the lesser of the base premiums in effect prior to, or following, the adjustment—will also be assessed during the twelve month period following the adjustment.

All of the sales load charges are designed to average not more than 9 percent of the base premiums less any charge for sub-standard risks over the lesser of (i) the life expectancy of the insured at contract issue or adjustment, or (ii) fifteen years from contract issue or adjustment. Compliance with the 9 percent ceiling will be achieved by reducing the amount of the first year sales load, if necessary.

The Company deducts certain charges from a contract's actual cash value, namely, an annual administration charge, a cost of insurance charge, certain charges for specific contract transactions and a charge for sub-standard risks, if any. The contracts also provide for charges against Account assets. The Company will deduct a mortality and expense risk charge on each valuation date at an annual rate of .50 percent of the Account's assets. In addition, the Company reserves the right to charge or make provision for any taxes payable by it with respect to the Account or the contracts by a charge or adjustment to Account assets.

The contracts provide for both "free look" and conversion rights. The "free look" provision is available not only following issuance of the contract, but also following any contract adjustments involving an increase in base premium. The "free look" provision allows an owner to return his or her contract to the Company or its agent by the later of 45 days after execution of the application or request for adjustment, 10 days after receipt of the contract or adjusted contract from the Company, or 10 days after the Company mails a notice describing the right of withdrawal. On return of the contract, all premiums paid will be refunded. On return of an adjusted contract, the requested adjustment, including the $25 transaction charge assessed for the adjustment, will be cancelled and any increase in premium paid will be refunded. So long as a contract is in force and all scheduled premiums have been duly paid, an owner may convert the contract to an adjustable life insurance policy with a fixed death benefit and cash values then being offered by the Company.

4. Applicants request relief from the following provisions of the 1940 Act and rules thereunder:

(1) Applicants request exemption from sections 22(c), 22(d), 22(e) and 27(c)(1) of the 1940 Act, Rule 22c–1, and paragraphs (b)(12)(i) and (c)(1)(i) of Rule 6e–2 to the extent necessary to permit provision in the contracts for the cash option death benefit. Rule 6e–2(c)(1)(i) requires the death benefit and the cash surrender value of the contract vary to reflect the investment experience of the separate account. In addition, Rule 6e–2(b)(12)(i) provides exemptions from sections 22(d), 22(e), and 27(c)(1) of the 1940 Act, and Rule 22c–1 thereunder, to the extent that the amount payable on death under each variable life insurance contract be determined on each day the New York Stock Exchange is open for trading or, if certain conditions are met, monthly or annually. Thus, Rule 6e(b)(12)(i) could be construed as requiring that the death benefit vary with the investment experience of the separate account. However, whenever the cash option death benefit is in effect under a contract, that contract will fail to satisfy the conditions of clause (i) of the definition of variable life insurance contract in Rule 6e–2(c)(1) and

paragraph (b)(12)(i) of Rule 6e–2 unless and until it becomes paid-up.

Except for the amount of the death benefit and the cost of insurance charges, which reflect the amount at risk, a contract with the cash option death benefit will operate in the same manner as one with the protection option in effect. The cash option death benefit may be viewed by some owners as preferable in that the amounts at risk under the contract will be smaller than under the protection option and, as a result, the cost of insurance will be less, thereby permitting a more rapid increase in the actual cash value of the contract. Applicants believe that a purchaser of a variable life insurance contract should not be compelled to have a death benefit which varies with the investment performance of the separate account. The requested relief is consistent with the proposed amendments to Rule 6e–2.

(2) Applicants request exemption from Rule 6e–2(c)(1)(ii) to the extent necessary to permit the issuance of contracts with a scheduled decrease in the initial face amount and the subsequent adjustment of contracts to a face amount less than the initial face amount. Paragraph (c)(1)(ii) of Rule 6e–2 defines variable life insurance contract so as to require that there be a guaranteed death benefit at least equal to the initial stated amount. Although all contracts provide for a guaranteed death benefit at least equal to the initial face amount, any contract with a term plan of insurance will provide for a scheduled reduction in face amount at the end of the initial term. Moreover, any contract, including a contract with a whole life plan of insurance, may be adjusted to a new face amount, which may be less than the initial face amount, and the death benefit guarantee will thereafter be applicable to the face amount as adjusted.

Contracts with scheduled reductions in face amount will require smaller premium payments than comparable whole life policies and therefore may be more affordable to many purchasers. Further, the scheduled reduction in face amount will be fully disclosed and the amount of reduced insurance is guaranteed regardless of the investment performance of the subaccounts selected by the owner, so that the death benefit guarantee, although changed in amount, will continue for the life of the insured so long as premiums are duly paid. Finally, it is in the best interests of purchasers of the contracts that they have the flexibility to increase or decrease the face amount of coverage of their contracts in light of their current insurance needs and economic circumstances.

(3) Applicants request exemption from sections 2(a)(35) and 27(a)(1) of the 1940 Act and paragraphs (b)(1), (b)(13)(i) and (c)(4) of Rule 6e–2 to the extent necessary to permit the deduction of cost of insurance charges not to exceed the charges derived from the 1980 Commissioners Standard Ordinary Mortality Table for purposes of calculating "sales load." In defining sales load, Rule 6e–2(c)(4) permits the exclusion of the cost of insurance based on the 1958 Table and the assumed investment rate specified in the contract. Under the contracts, the cost of insurance is guaranteed not to exceed the maximum charges for mortality derived from the 1980 Table.

The 1980 Table reflects more current mortality experience. Except for young male insureds at certain ages, the Table provides for lower cost of insurance charges. If the Company were to compute sales load on the basis of cost of insurance charges derived from the 1958 Table, it would be able to increase the amount of the gross premiums under most contracts and treat the increase as attributable to cost of insurance when such would not be the case. The relief requested is consistent with proposed amendments to Rule 6e–2.

(4) Applicants request exemption from section 27 (a)(1) of the Act and Rule 6e–2(b)(13)(i) to the extent necessary to permit the anticipated life expectancy of the insured to be determined on the basis of the 1980 Table for purposes of calculating the period over which sales loads may not exceed 9 percent. Paragraph (b)(13)(i) of Rule 6e–2 requires compliance with the 9 percent limit of section 27(a)(1) over a period of the lesser of twenty years or the anticipated life expectancy of the insured based on the 1958 Table. Since longevity is generally greater under the 1980 Table, the period for compliance with the 9 percent sales load limitation contained in the contracts could be longer than the period contemplated by paragraph (b)(13)(i).

Applicants represent the contracts have been designed on the basis of the 1980 Table for all purposes. Presumably, the purpose of the life expectancy provision in paragraph (b)(13)(i) of the Rule is to provide a realistic limitation on the number of payments that can reasonably be anticipated under a scheduled premium contract issued for an older insured. Applicants submit that the more current 1980 Table is appropriate for this purpose. The relief requested is consistent with proposed amendments to Rule 6e–2.

(5) Applicants request exemption from section 27(a)(1) of the 1940 Act and Rule 6e–2(b)(13)(i) to the extent necessary to permit the assessment of a new first year sales load upon a contract adjustment involving an increase in base premium, which sales load may be in addition to a first year sales load being taken at the time the adjustment is made.

Section 27(a)(1) of the 1940 Act and Rule 6e–2(b)(13)(i) together limit the sales loads to be assessed under the contracts to 9 percent of the premiums to be paid over the lesser of 20 years or the anticipated life expectancy of the insured. Since an adjustment is made in accordance with the terms of the contracts, the adjusted contract could be viewed as a continuation of the old contract, and a new first year sales load assessed as a result of an adjustment involving an increase in base premium might result in the aggregate sales loads exceeding 9 percent if the 20 year period in which to comply with the 9 percent ceiling were measured from the date of issue as opposed to the date of adjustment.

Applicants submit that collection of a new first year sales load upon an adjustment involving an increase in base premium is appropriate in view of the fact that such an adjustment is not expected to occur in typical cases without substantial sales effort for which first-year sales compensation from the company will be required. Rule 6e–3(T) under the 1940 Act reflects SEC recognition that a first year sales load should be allowed for an increase in face amount provided the free look and conversion rights applicable upon issuance of a contract are available for the incremental insurance coverage.

Applicants submit that under the contracts an improvement in plan is comparable to an increase in face amount and a new first year sales load is appropriate regardless of the form in which the enhanced insurance coverage resulting from the increase in premium is taken. An improvement in plan is, in the case of term plans of insurance, a postponement of the time at which a reduction in face amount is scheduled to occur and, in the case of whole life plans, a reduction in the premium period.

Applicants further submit that the continued assessment of an existing first year sales load in addition to a new first year sales load is appropriate in the circumstances where it arises. If an adjustment is made when a first year sales load is being taken, *viz.*, during the twelve month period following issuance of the contract or a prior contract

adjustment, the uncollected portion of such sales load will be assessed during the twelve month period following the adjustment. Applicants state that the continued assessment of such first year sales load is warranted in this circumstance as it permits the Company to recover as a sales load no more than what it would have received had the adjustment not occurred. Where the adjustment made is one resulting in an increase in base premium, the only change in the first year sales load applicable to the base premium previously in effect is that its assessment is made over a new twelve month period. Applicants opine that assessing the uncollected portion of the first year sales load applicable to the premium previously in effect over a new twelve month period is to the advantage of the contractowner in that it results in a greater portion of the base premium available for investment and an earlier increase in contract value.

Where an adjustment resultsin the assessment of a new first year sales load or the continued asssessment of an existing first year sales load, the aggregate sales loads thereafter will not exceed 9 percent of the base premiums, less any charge for sub-standard risks, scheduled to be made over the lesser of 15 years or the then life expectancy of the insured. Moreover, the aggregate sales loads assessed under the contracts will not exceed the sum of the sales loads that would have been assessed if the increase in face amount or improvement in plan of insurance resulting from the increase in premium were provided under a separate contract.

(6) Applicants request exemption from section 27(a)(3) of the 1940 Act and Rule 6e–2(b)(13)(ii) to the extent necessary to permit increases in the proportionate amount of sales load deducted from premiums following certain contract adjustments or the payment of nonrepeating premiums. Applicants propose to impose a new first year sales load whenever the owner requests an adjustment involving an increase in base premium. The collection a new first year sales load against the incease in base premium, other than when a first year sales load in the same proportionate amount has been deducted from the immediately preceding payment, will result in an increase in the percentage of sales load deducted from the total base premium in violation of the 1940 Act and Rule.

Applicants submit that the reasons for allowing a new first year sales load following certain contract adjustments, as set forth above, also support relief from the "stair-step" provisions. Exemptive relief to permit an increase in percentage sales load after the payment of a nonrepeating premium during the first year following contract issuance or adjustment is appropriate in order to encourage the payment of such premiums at any time and to avoid assessing a sales load on the nonrepeating premium in excess of the loading the Company considers necessary to provide for its anticipated sales expenses. Similarly, exemptive relief is requested to permit a percentage increase in sales load upon an adjustment involving a reduction in premium under plans which are greater than whole life. Plans greater than whole life assume payment of premiums for a designated period as opposed to for the life of the insured. Whole life plans become paid-up at the insured's age 100 by payment of a level premium for life. Payment of a higher premium will cause the contract to become paid-up prior to age 100, and such plans are referred to as plans greater than whole life. The earlier the contract becomes paid-up, the greater the plan of insurance. An adjustment during the first contract year which reduces the amount of the premium from a greater than whole life premium will result in an increase in percentage sales load, since the portion of any premium in excess of the whole life premium is subject to the basic sales load only. A percentage increase in sales load upon an adjustment involving a reduction in premium under plans greater than whole life is justified by the advantage to contractowners in having a sales load schedule in which the first year sales load is confined to the whole life premium. Applicants submit that this relief would enable them to avoid the imposition of sales loads in excess of those deemed necessary by investment companies and their sponsors in order to satisfy the "stair-step" requirements. (Certain explanatory arguments were provided by letter from counsel dated September 3, 1986.)

(7) Applicants request exemption from sections 26(a) (1) and (2) and 27(c)(2) of the Act 1940 and Rule 6e–2(b)(13)(iii) to the extent necessary to permit the deduction from Account assets of charges for cost of insurance and sub-standard risks. The relief requested is consistent with the proposed amendments to Rule 6e–2.

Applicants contend that the proposed relief is necessary because the contracts differ from typical scheduled premium contracts in that they can be adjusted at any time to stop premium, provided there is a sufficient actual cash value to keep the contract in force until the next contract anniversary: as a result, no further premiums will be required. Absent other changes, an adjustment to stop premium will result in a new plan of insurance during the term of which the death benefit under the protection option and the actual cash value under either death benefit option will continue to reflect the investment experience of the Account. The proposed method of deducting the charges for cost of insurance and sub-standard risks is designed to enable the Company to continue to assess the charges during the period that variable insurance coverage continues after the termination of premium payments, either as a result of an adjustment to stop premium or the contract's becoming paid-up. Moreover, in computing the amounts to be deducted as sales load, the applicable percentage charges are applied to a contract's base premium reduced by any charge against actual cash value for sub-standard risks. Thus, deducting the charge from a contract's actual cash value does not result in an increase in the amount of the sales load deduction.

(8) Applicants request exemption from sections 2(a)(32), 22(c), 27(c)(1) and 27(d), Rule 22c–1 and paragraphs (b)(13)(iv) and (v) of Rule 6e–2 to the extent necessary to permit the assessment of the annual administration charge upon surrender. The contracts provide for an administration charge of $60 to be deducted each year from the actual cash value. The accrued portion of the charge will be assessed each time the actual cash value is determined. In the event of a complete surrender, the Company will assess the full administration charge less any portion previously assessed during the contract year. The assessment of more than the accrued portion of the annual administration charge upon complete surrender could be viewed as a charge on redemption.

Applicants submit it is appropriate for the Company to recover its full administration charge in such event. The charge has been designed in part to reflect the fact that certain administrative expenses are of a fixed nature and occur annually regardless of whether the contract remains in force for the full year. In view of the fact that the $60 administration charge has been designed to cover only administrative expenses and not to provide a profit to the Company, the full administration charge, less any portion previously deducted in the contract year, should be allowed the Company on a complete surrender. The considerations leading to the SEC's adoption of Rule 6c–8(c) under the 1940 Act to permit a similar

administration charge upon total redemption of a variable annuity contract apply with equal force to the administration charge here proposed.

(9) Applicants request exemption from section 27(d) of the 1940 Act and Rule 6e–2(b)(13)(v)(B) to the extent necessary to permit the right to convert to a fixed benefit adjustable life insurance policy with a death benefit equal to the contract's then current face amount and with a plan of insurance which may be less than for the whole of life. Applicants propose to provide a right to convert to a fixed benefit adjustable life insurance policy then being issued by the Company having an initial face amount equal to the then current face amount of the contract. Since the fixed benefit adjustable life policy may be a term policy and have an initial face amount either greater or less than the initial face amount of the contract, the conversion right contained in the contracts may not satisfy the requirements of paragraph (b)(13)(v))(B).

The conversion right in the contracts provides a contract owner with the right to obtain fixed benefit coverage that most closely corresponds to the owner's then current variable life insurance coverage. This right is not confined to the two year period contemplated by the Rule, but is available so long as a contract is in force and all scheduled premiums have been paid. In view of the adjustable features of the contracts, the current face amount and plan of insurance presumably reflect the owner's judgment as to the type and amount of insurance coverage most appropriate in view of his or her current circumstances. The same type and amount of fixed benefit coverage should be available upon conversion. To require the owner of a contract having a term plan of insurance to take a whole life policy upon exercise of the conversion right could well discourage exercise of the right, as it would force the owner to accept a policy design differing substantially from the one he or she has.

(10) Applicants request exemption from sections 9(a), 13(b), 15(a) and (15)(b) of the 1940 Act and of Rule 63–2(b)(15) to the extent necessary to permit the sale of the Fund shares to both variable annuity and variable life separate accounts subject to the provisions of clauses (i) through (iv) of Rule 6e–2(b)(15) and the conditions set forth below.

Applicants submit that there is no policy reason why the exemptions provided by Rule 6e–2(b)(15) should not apply to the Fund solely because variable annuity separate accounts of the Company as well as the Account will invest in Fund shares. Applicants submit that the relief requested is not inconsistent with proposed amendments to Rule 6e–2 which permit "mixed funding" of variable annuity and variable life separate accounts under certain conditions. *Applicants' Conditions*: If the requested order is granted, Applicants agree to the following conditions:

(a) The Board of Directors of the Fund, constituted with a majority of disinterested directors, will monitor the Fund for the existence of any material irreconcilable conflict between the interests of variable annuity contract holders investing in the Fund and interests of holders of the contracts.

(b) The Company agrees that it will be responsible for reporting any potential or existing conflicts to the directors of the Fund.

(c) If a material irreconcilable conflict arises, the Company will, at its own cost, remedy such conflict up to and including establishing a new registered management investment company and segregating the assets underlying the variable annuity contracts and the contracts.

For the reasons stated above, Applicants submit that the requested relief is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86–28004 Filed 12–12–86; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–23863; File No. SR–Amex–86–29]

Self-Regulatory Organizations; Proposed Rule Change by American Stock Exchange, Inc., Relating to Numerical Criteria for the Original Listing of Securities and to Suspension and Delisting Policies

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on November 14, 1986, the American Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The text of the proposed rule change is available at the Office of the Secretary, American Stock Exchange, Inc. and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

The Exchange's numerical listing guidelines have operated to ensure that only financially secure companies, whose securities are held by sufficient numbers of investors, are admitted to dealings on the Amex. In recent years, however, a large number of growth companies have emerged—such as biotechnology companies, cable television franchises, and other services or research oriented enterprises—whose capital structure and needs are often unrelated to those of traditional manufacturing corporations. The proposed amendments are intended to accommodate and to remove existing barriers to Exchange listing for such companies that have significant growth potential but that may lack, for example, the tangible assets or the extended record of profitable performance that have characterized the more traditional corporations that the Exchange has admitted to listing.

Financial Guidelines. Under section 101 of the *Company Guide*, to be eligible for listing, a company is expected to have tangible net worth of $4 million and both pre-tax and net income of $750,000 and $400,000, respectively, after all charges, including extraordinary and non-recurring items, in its latest fiscal year.

The requirement for tangible net worth has been in effect since the early 1960's when nearly all public companies

were engaged in manufacturing, and only "hard assets" were viewed as evidence of financial strength. Based upon discussions with various investment bankers and other securities professionals, the Exchange believes the tangible net worth standard to be unduly restrictive and that it is appropriate to replace it with the more widely accepted standard of shareholders' equity. This would permit the Exchange to consider as part of an issuer's net worth the value ascribed to copyrights, franchises and other "intangibles" that clearly have monetary value.

A dual pre-tax and net income standard is similarly unnecessarily restrictive and contrary to the single income standard applied by other marketplaces. Also, by focusing exclusively on the latest fiscal year, a company may be excluded from listing consideration despite an overall favorable record of profitability. For these reasons, the Exchange believes it is appropriate to apply a single pre-tax standard which may be satisfied either in the latest fiscal year, or in two of the company's past three fiscal years.

The Exchange also believes it is appropriate to expand its guidelines under section 101(b) to include an alternative cash flow standard.[1] Over the past several years, many entities have opted for a structure which minimizes taxable income, and thus will not report profits. Most media (*e.g.*, cable television) and real estate companies, for example, fall into this category, and for this reason are routinely evaluated on the basis of available cash flow and not net earnings. The requirement that a company have at least $1.5 million cash flow from operations in its latest fiscal year, together with stockholders' equity and other requirements discussed below, will assure that the company to be listed is financially viable.

Distribution. Section 102(a) of the *Company Guide* provides that a company must have at least 500,000 shares publicly held by at least 1,000 stockholders, including 800 holders of 100 shares or more. In addition, at least 150,000 shares must be held in lots of between 100 and 1,000 by at least 500 persons. Issues which fall below these guidelines may, however, be accepted provided there are at least 800 shareholders and daily volume in the stock over a six month period averages 2,000 shares per day.

In view of the reduced importance in recent years of trading by small round-lot holders and the almost total absence of odd-lot holders in today's marketplace, the Exchange believes it sufficient to establish a single 800 holder requirement for those companies which have between 500,000 and 1 million shares publicly held. Companies which have in excess of 1 million shares publicly held would qualify with 400 holders since experience shows that a public float in excess of 1 million shares diminishes the need for a large shareholder base. Similarly, a 400 holder requirement is also believed adequate for those issues which have a public float of at least 500,000 shares and can demonstrate a trading history of more than 2,000 shares per day.

Market Value/Price Per Share. The present $3 million aggregate market value/$5 per share guideline is, in effect, a combined standard. Where a company's publicly held shares have exceeded $3 million, the Exchange generally has accepted the company's stock for listing if its price ranged between $3 and $5. Based on its experience in listing such securities, the Exchange views a $3 price guideline to be an appropriate minimum standard, in light of other factors considered by the Exchange, including market value, the historical price of the issue, the applicant's capitalization, and the number of outstanding and publicly-held shares.

Alternate Guidelines. In 1977, the Exchange adopted alternative criteria under Section 107 of the *Company Guide* for companies that, because of the nature of their business or because of continuing large expenditures for research and development, were unable to qualify under the basic listing criteria. The Exchange's experience with these criteria, however, indicates that they are excessively restrictive to the point of virtually precluding the listing of companies under section 107.

An alternative listing standard, in the Exchange's view, is wholly appropriate for companies that do not lend themselves to traditional analysis but that are generally recognized by the marketplace as high quality companies. For example, a number of relatively young, actively traded companies in high-technology industries have significant growth potential, but have been precluded from Exchange listing under existing alternate guidelines. Therefore, the present five year operations history requirement is being reduced to three years, and the $12 million tangible net worth size requirement is changed to a requirement of at least $4 million in stockholders' equity. At the same time, however, the required market value of publicly held shares is increased from $10 million to $15 million to establish an effective minimum eligibility screening standard.

Bonds and Debentures. Section 104 of the *Company Guide* is amended to reduce from 300 to 100 the number of holders required for the listing of debt securities issued by companies that do not have common stock traded on either the Amex or the New York Stock Exchange. Because of the predominance of institutional investors in the corporate bond market, a 300 holder requirement imposes an almost insurmountable obstacle to listing. The Exchange views a 100 minimum holder requirement as sufficient to provide for efficient auction market trading.

Delisting Criteria. Sections 1003(a)(i) and (ii) of the *Company Guide* are amended to replace the tangible net worth standard with the new stockholder's equity standard. In addition, section 1003(b) is modified by reducing to 300 the number of holders below which a company would be considered for delisting.

(2) Basis

The proposed rule change is consistent with section 6(b) of the Act in general and furthers the objectives of section 6(b)(5), in particular, in that it is designed to protect investors and the public interest, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealer, or to regulate matters not related to the purposes of the Act or the administration of the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will impose no burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

[1] The Commission is interested in receiving comment on the appropriateness of using the alternative cash flow standard in determining whether a company is eligible for listing on the Exchange. The cash flow standard has been considered in a previous Commission filing (Securities Exchange Act Release No. 20649 (February 13, 1984); 49 FR 6587) and a release by the Commission's Office of Chief Accountant (ASR No. 299, October 13, 1981).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by January 5, 1987.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: December 5, 1986.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-28003 Filed 12-12-86; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD3 86-72]

New York Harbor Traffic Management Advisory Committee; Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I), notice is hereby given of a meeting of the New York Harbor Traffic Management Advisory Committee to be held on January 22, 1987, in the Conference Room, second floor, U.S. Coast Guard Marine Inspection Office, Battery Park, New York, New York, beginning at 10:00 a.m.

The agenda for this meeting of the New York Harbor Traffic Management Advisory Committee is as follows:

1. Introduction of Committee Sponsor, Committee members, and Coast Guard officers.
2. A progress report from the Coast Guard on the changing of communications transceivers and installation of new cameras throughout the VTS system.
3. A discussion of the effect the planned Navy Battle Group installation on Staten Island might have on the Vessel Traffic Service, Stapleton Anchorage, and other harbor activity.
4. A report by the Coast Guard on the status of proposed legislation aimed at controlling boaters who use drugs or alcohol.
5. A review of the Committee's position with regard to the construction of marinas and proposed communication with the Army Corps of Engineers to require wake protection before permitting new construction.
6. Further discussion regarding the length and content of vessel traffic summaries broadcast by the Vessel Traffic Service.
7. A report by the Coast Guard on the feasibility of extending the VTS boundary to the Whitestone Bridge in lieu of the Williamsburg Bridge.
8. Other topics which might arise and the committee agrees should be addressed at the time.
9. Review of agenda topics and selection of date for next meeting.

The New York Harbor Traffic Management Advisory Committee has been established by Commander, Third Coast Guard District to provide information, consultation, and advice with regard to port development, maritime trade, port traffic, and other maritime interests in the harbor. Members of the Committee serve voluntarily without compensation from the Federal Government.

Attendance is open to the interested public. With advance notice to the Chairperson, members of the public may make oral statements at the meeting. Persons wishing to present oral statements should so notify the Executive Director no later than the day before the meeting. Any member of the public may present a written statement to the Committee at any time.

FOR FURTHER INFORMATION CONTACT: Captain R.J. Heym, USCG, Executive Secretary, NY Harbor Traffic Management Advisory Committee, New York Vessel Traffic Service, Governors Island, New York, NY 10004, or by calling (212) 668-7954.

Dated: December 10, 1986.

G.D. Passmore,

Rear Admiral (Lower Half), U.S. Coast Guard Commander, Third Coast Guard District.

[FR Doc. 86-28050 Filed 12-12-86; 8:45 am]

BILLING CODE 4910-14-M

Maritime Administration

[Docket S-796]

Farrell Lines Inc.; Application to Provide a TR 14/TR 20 Dual Service

Farrell Lines Incorporated (Farrell), by letter application dated November 5, 1986, as amended December 1, 1986, has requested an amendment to Appendix A of Operating-Differential Subsidy Agreement (ODSA), Contract MA/MSB-352 in order to permit service between U.S. Atlantic and Gulf ports and West Africa, Trade Route (TR) 14, in conjunction with TR 20 U.S. Gulf/East Coast South America service.

Farrell states that a serious imbalance exists today in the cargo flow on TR 14 (and projected for the next eight to ten years) in which exports from the United States to West Africa greatly exceed imports from that region. This situation makes it difficult to serve the region economically since the preponderance of cargo moves only in one direction. In addition, there are many foreign-flag competitors in this trade which are either low cost charter operators or state controlled shipping lines.

By contrast, on TR 20 there is a large volume of cargo destined for United States gulf ports and interior regions of the United States served by the gulf, but with no American-flag line to lift it. In Farrell's view, United States Lines, Inc.'s cessation of service on TR 20 approximately 11 months ago should be interpreted as an abandonment of the trade rather than as a suspension. Given the trade characteristics of these two adjacent areas and the future trade forecasts of each, it is the opinion of Farrell that TRs 14 and 20 should be linked.

Farrell believes that permitting it to operate on TR 20 in conjunction with TR 14 would provide Farrell with a logical

supplementary source of cargo and would re-establish an American-flag presence on a trade route with significant potential. The combined operation would strengthen the commerce of the United States and insure American-flag representation in both trades.

Farrell cites a study conducted by the port of New Orleans which shows that from March 1, 1986, through May 30, 1986 in excess of one million tons of imports through gulf ports were identified as originating in South American countries destined for Louisiana, Arkansas, Texas, Oklahoma, Missouri, and Kansas aboard regularly sceheduled liner services.

Farrell proposes initiating service on TR 14/TR 20 with its two C3 combination ships and one C8 LASH vessel which Farrell projects will enable it to serve the two trading areas and fulfill its minimum West Africa sailing obligation.

Farrell states that it will conduct the operation proposed to be subsidized in a manner which will not preclude the company from earning at least 50 percent of its inbound gross freight revenue and 50 percent of its outbound gross freight revenue from voyages covered by this application from the carriage of competitive cargo.

Farrell believes that the proposed service is consistent with the purposes and policies of the Merchant Marine Act, 1936, as amended, since it will (1) permit more effective utilization of resources and equipment, thereby contributing to the financial stability of a U.S.-flag carrier, (2) assist Farrell in maintaining regular U.S.-flag service to West Africa while, at the same time, establishing an American-flag presence on the U.S. Gulf/east coast South America route, and (3) promote increased U.S.-flag participation.

Farrell claims that the proposed service will not increase the number of vessels or annual sailings beyond those currently permitted in Farrell's ODSA Contract MA/MSB-352.

This application may be inspected in the Office of the Secretary, Maritime Administration. Any person, firm, or corporation having any interest in such request and desiring to submit comments concerning the application must file written comments in triplicate with the Secretary, Maritime Administration, Room 7300, Nassif Building, 400 Seventh Street SW., Washington, DC 20590. Comments must be received no later than 5:00 P.M. on December 23, 1986. This notice is published as a matter of discretion and publication should in no way be considered a favorable or unfavorable decision on the application, as filed or as may be amended. The Maritime Subsidy Board will consider any comments submitted and take such actions with respect thereof as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 20.804 Operating-Differential Subsidies.)

By Order of the Maritime Subsidy Board.

Dated: December 9, 1986.

James E. Saari,

Secretary.

[FR Doc. 86-28012 Filed 12-12-86; 8:45 am]

BILLING CODE 4910-81-M

National Highway Traffic Safety Administration

Rulemaking, Research and Enforcement Programs; Public Meeting

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice.

SUMMARY: This notice announces a public meeting at which NHTSA will answer questions from the public and the automobile industry regarding the agency's rulemaking, research and enforcement programs.

DATES: The agency's regular, quarterly public meeting relating to the agency's rulemaking, research, and enforcement programs will be held on January 27, 1987, beginning at 10:30 a.m. Questions relating to the agency's rulemaking, research, and enforcement programs, must be submitted in writing by January 16, 1987. If sufficient time is available, questions received after the January 16, date may be answered at the meeting. The individual, group or company submitting a question does not have to be present for the question to be answered. A consolidated list of the questions submitted by January 16, and the issues to be discussed will be mailed to interested persons on January 23, 1987, and will be available at the meeting.

ADDRESS: Questions for the January 27 meeting relating to the agency's rulemaking, research, and enforcement programs should be submitted to Barry Felrice, Associate Administrator for Rulemaking, Room 5401, 400 Seventh Street, SW., Washington, DC 20590. The public meeting will be held in the Conference Room of the Environmental Protection Agency's Laboratory Facility, 2565 Plymouth Road, Ann Arbor, Michigan.

SUPPLEMENTARY INFORMATION: NHTSA will hold its regular, quarterly meeting to answer questions from the public and industry regarding the agency's rulemaking, research, and enforcement programs on January 27, 1987. The meeting will begin at 10:30 a.m., and will be held in the Conference Room of the Environmental Protection Agency's Laboratory Facility, 2565 Plymouth Road, Ann Arbor, Michigan. The purpose of the meeting is to focus on those phases of these NHTSA activities which are technical, interpretative or procedural in nature. A transcript of the meeting will be available for public inspection in the NHTSA Technical Reference Section in Washington, DC within four weeks after the meeting. Copies of the transcript will then be available at twenty-five cents for the first page and five cents for each additional page (length has varied from 100 to 150 pages) upon request to NHTSA Technical Reference Section, Room 5108, 400 Seventh Street, SW., Washington, DC 20590.

Issued on December 9, 1986.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 86-28038 Filed 12-12-86; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 86-214]

Approval of American Inspection and Testing, Inc., to Gauge Imported Petroleum and Petroleum Products

AGENCY: Customs Service, Treasury.

ACTION: Notice of approval.

SUMMARY: Pursuant to Section 151.43(b), Customs Regulations (19 CFR 151.43(b)), American Inspection and Testing, Inc., 212 East X Street, Deer Park, Texas 77536, has applied to Customs for approval to gauge imported petroleum and petroleum products. It has been determined that American Inspection and Testing meets all of the requirements to be a Customs approved public gauger.

Accordingly, the application of American Inspection and Testing, Inc., to gauge imported petroleum and petroleum products in all Customs districts is approved.

EFFECTIVE DATE: December 8, 1986.

FOR FURTHER INFORMATION CONTACT: Roger J. Crain, Technical Service Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229 (202-566-2446).

Dated: December 8, 1986.

Roger J. Crain,

Chief, Technical Section, Technical Services Division.

[FR Doc. 86-27986 Filed 12-12-86; 8:45 am]

BILLING CODE 4820-02-M

UNITED STATES INFORMATION AGENCY

Reporting and Recordkeeping Requirement Under OMB Review

AGENCY: United States Information Agency.

ACTION: Notice of reporting requirement submitted for OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C Chapter 35), agencies are required to submit proposed or established reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the Federal Register notifying the public that the agency has made such a submission. USIA is requesting approval of its information collection on a standardized program report.

DATE: Comments must be received by December 18, 1986. If you intend to comment and cannot do so by the deadline, please contact the Agency Clearance Officer or OMB Reviewer.

Copies: Copies of the request for clearance (S.F. 83), supporting statement, instructions, transmittal letter and other documents submitted to OMB for review may be obtained from the USIA Desk Officer. Comments on the item listed should be submitted to the Office of Information and Regulatory Affairs of OMB. Attention: Desk Officer for USIA.

FOR FURTHER INFORMATION CONTACT: Agency Clearance Officer: John Davenport, United States Information Agency, M/ASP, 301 4th Street SW., Washington, DC 20547. Telephone (202) 485-7505, and OMB Reviewer: Bruce McConnell, Information and Regulatory Affairs, Office of Managment and Budget, New Executive Office Building, Washington, DC., 20503. Telephone (202) 395-7231.

SUPPLEMENTARY INFORMATION: Title: President's International Youth Exchange Intitiative Program Report. Form Number: IAP-91. Abstract: The Agency needs accurate statistics on the impact on exchange programs of grants awarded under the President's International Youth Exchange Initiative. Current reporting does not provide this data uniformly. Information gathered on this program report will be used to report to the Congress, the President's Council, and the public on the Initiative.

Dated: December 5, 1986.

Charles N. Canestro,

Managment Analyst, Federal Register Liaison.

[FR Doc. 86-27994 Filed 12-12-86; 8:45 am]

BILLING CODE 8230-01-M

Sunshine Act Meetings

Federal Register
Vol. 51, No. 240
Monday, December 15, 1986

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Volume 51, No. 235, Federal Register 44177, Monday, December 8, 1986.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2:00 p.m. (eastern time) Monday, December 15, 1986.

CHANGE IN THE MEETING: The following item has been postponed.

"Litigation Authorization; GC Recommendations"

CONTACT PERSON FOR MORE INFORMATION: Cynthia C. Matthews, Executive Officer, Executive Secretariat, (202) 634-6748.

Dated and issued: December 9, 1986.

Cynthia C. Matthews,

Executive Officer, Executive Secretariat.

[FR Doc. 86-28070 Filed 12-10-86; 4:31 pm]

BILLING CODE 6750-06-M

FEDERAL COMMUNICATIONS COMMISSION

December 10, 1986.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Wednesday, December 17, 1986, which will be scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, NW., Washington, DC.

Agenda, Item No., and Subject

Common Carrier—1—Title: In the Matter of Decreased Regulation of Certain Basic Telecommunications Services. Summary: The FCC will consider whether to adopt a Notice of Proposed Rulemaking concerning alternative tariff regulation of certain basic telecommunications services.

Mass Media—1—Title: *Notice of Inquiry* on the Constitutional Permissibility and Regulatory Advisability of Race- and Gender-Based Policies Intended to Enhance Minority and Female Ownership of Broadcast Stations. Summary: The Commission will consider whether to issue a *Notice of Inquiry* concerning the constitutional permissibility and desirability of continuing three policies designed to increase minority and female ownership of broadcast facilities: minority and female enhancement credits in comparative hearing cases; the "distress sale" policy; and the grant of tax certificates for sales of broadcast stations to minorities.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Office of Congressional and Public Affairs, telephone number (202) 632-5050.

* The summaries listed in this notice are intended for the use of the public attending open Commission meetings. Information not summarized may also be considered at such meetings. Consequently these summaries should not be interpreted to limit the Commission's authority to consider any relevant information.

Issued: December 10, 1986.

William J. Tricarico,

Secretary.

[FR Doc. 86-28104 Filed 12-11-86; 11:06 am]

BILLING CODE 6712-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:30 a.m. on Tuesday, December 9, 1986, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to: (1) Accept the highest acceptable bid which may be submitted in accordance with the "Instructions for Bidding" for the purchase of assets of and the assumption of the liability to pay deposits made in The Citizens Bank of Windsor, Windsor, Missouri, an insured State nomember bank scheduled for closing later in the day by the Commissioner of Finance for the State of Missouri, or (2) in the event no acceptable bid for a purchase and assumption transaction is submitted, accept the highest acceptable bid for an insured deposit transfer transaction which may be submitted, or (3) in the event no acceptable bid for either type transaction is submitted, make funds available for the payment of the insured deposits of the closed bank.

At that same meeting, the Board of Directors also considered: (1) Matters relating to the possible failure of an insured bank; and (2) a request for financial assistance pursuant to section 13(c) of the Federal Deposit Insurance Act.

In calling the meeting, the Board determined, on motion of Chairman L. William Siedman, seconded by Director C.C. Hope, Jr. (Appointive), concurred in by Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: December 11, 1986.

Federal Deposit Insurance Corporation.

Janet M. Reddish,

Assistant Executive Secretary.

[FR Doc. 86-28181 Filed 12-11-86; 3:32 pm]

BILLING CODE 6714-01-M

FEDERAL ENERGY REGULATORY COMMISSION

December 10, 1986.

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94-409), 5 U.S.C. 522B:

TIME AND DATE: December 17, 1986, 10:00 a.m.

PLACE: 825 North Capitol Street, NW., Room 9306, Washington, DC 20424.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, Telephone (202) 357-8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the public reference room.

Consent Power Agenda, 848th Meeting—December 17, 1986, Regular Meeting (10:00 a.m.)

CAP-1.

Project No. 7353-003, Truckee Donner Public Utility District.

CAP-2.

Project No. 10077–001, Iron Mountain Mines, Inc.
CAP–3.
Project Nos. 7282–017 and 019, Roaring Creek Ranch and Mega Renewables
CAP–4.
Project No. 2655–001, Fieldcrest Mills, Inc.
CAP–5.
Docket No. HB24–63–006, Public Service Company of Colorado
CAP–6.
Project No. 7282–018, Roaring Creek Ranch
CAP–7.
Docket No. ER87–35–001, Southern California Edison Company
CAP–8.
Docket Nos. ER83–418–007 and 008, Kansas Power & Light Company
CAP–9.
Docket No. ER87–44–000, Wisconsin Public Service Corporation
CAP–10.
Docket No. ER87–47–000, Alamito Company
CAP–11.
Docket No. ER87–67–000, Wisconsin Electric Power Company
CAP–12.
Docket Nos. ER87–69–000 and ER87–70–000, Southern California Edison Company
CAP–13.
Docket Nos. ER87–72–000 and ER87–73–000, Orange and Rockland Utilities, Inc.
CAP–14.
Docket Nos. ER87–163–002, Commonwealth Edison Company
CAP–15.
Docket Nos. ER87–506–002 and 003, Southwestern Electric Power Company
CAP–16.
Docket Nos. ER85–461–009, ER85–521–005, ER86–258–003, ER86–478–002 and ER86–567–002, Kansas Gas and Electric Company
CAP–17.
Docket No. ER85–596–003, New England Power Company
CAP–18.
Docket No. ER86–47–000, Town of Highlands, North Carolina, Haywood Electric Memberships Corporation, North Carolina, Electric Membership Corporation, and Western Carolina University v. Nantahala Power & Light Company

Consent Miscellaneous Agenda

CAM–1.
Docket No. FA84–12–001, Pennsylvania Power & Light Company
CAM–2.
Docket No. RM–85–1–000, Regulation of natural gas pipelines after partial wellhead decontrol (Howell Petroleum Corporation)
CAM–3.
Docket No. RM85–1–000, regulation of natural gas pipelines after partial wellhead decontrol (Bishop Pipeline Corporation)
CAM–4.
Omtted
CAM–5.
Omtted
CAM–6.
Omtted
CAM–7.
Docket No. GP83–12–001, State of Kansas, Section 103 NGPA determination, Continental Energy Company, Stanley No. 1 well (Haskell Co.), FERC NO. JD81–01760
CAM–8.
Omitted
CAM–9.
Docket Nos. GP86–9–001 and 002, Consolidated Gas Transmission Corporation
Docket No. GP82–31–001, Mid-Louisiana Gas Company
Docket No. GP82–41–001 and 002, Columbia Gas Transmission Corporation
CAM–10.
Docket No. GP86–5–000, Northern Natural Gas Company, division of Enron Corporation
CAM–11.
Docket No. RO86–25–000, Canal Refining Company
CAM–12.
Docket No. RM85–1–181, regulation of natural gas pipelines after partial wellhead decontrol (Columbia Gas Transmission Corporation and Columbia Bulk Transmission Company)

Consent Gas Agenda

CAG–1.
Omtted
CAG–2.
Docket Nos. RP86–105–004, 005, RP86–169–002 and 003, ANR Pipeline Company
CAG–3.
Docket No. RP:86–170–002, Mississippi River Transmission Corporation
CAG–4.
Docket No. RP86–119–006, Tennessee Gas Pipeline Company, a division of Tenneco Inc.
CAG–5.
Docket Nos. RP86–167–002, 003 and 004, Columbia Gulf Transmission Company
Docket Nos. RP86–168–002, 003, 004, TC86–21–001, 002 and 003, Columbia Gas Transmission Corporation
CAG–6.
Docket No. TA87–1–29–003, Transcontinental Gas Pipe Line Corporation
CAG–7.
Docket No. TA87–1–37–003, Northwest Pipeline Corporation
CAG–8.
Docket No. TA87–1–43–003, Northwest Central Pipeline Corporation
CAG–9.
Docket Nos. TA87–1–46–002 and RP87–12–001, Kentucky West Virginia Gas Company
CAG–10.
Omitted
CAG–11.
Docket Nos. RP86–35–006 and 007, Great Lakes Gas Transmission Company
CAG–12.
Docket Nos. RP86–88–002 and 003, Overthrust Pipeline Company
Docket No. RP86–82–001, Wyoming Interstate Company, Ltd.
Docket No. RP86–95–001, Canyon Creek Compression Company
Docket No. RP86–96–002, Trailblazer Pipeline Company
CAG–13.
Docket No. RP78–20–26, Columbia Gas Transmission Corporation
CAG–14.
Docket No. TA87–1–32–003 (PGA87–lb), Colorado Interstate Gas Company
CAG–15.
Docket Nos. RP86–165–000 and RP86–166–000, Kentucky West Virginia Gas Company
CAG–16.
Docket Nos. TA87–1–49–000 and TA86–1–49–000, Williston Basin Interstate Pipeline Company
CAG–17.
Docket Nos. TA86–3–30–000, 001, 002 and TF86–1–30–000, Trunkline Gas Company
CAG–18.
Docket No. TA83–2–31–008, Arkla Energy Resources, a division of Arkla, Inc.
CAG–19.
Docket No. ST86–1431–000, Weirton Service Pipeline Company, Inc.
CAG–20.
Docket No. ST85–385–001, Producer's Gas Company
CAG–21.
Docket Nos. ST86–2368–001, ST85–1000–001 and ST85–1001–001, Somerset Gas Service
CAG–22.
Docket No. ST86–2719–001, Producer's Gas Company
CAG–23.
Docket Nos. ST86–1630–000, ST86–1631–000, ST86–1632–000, ST86–1633–000, ST86–1636–000, ST86–1686–000, ST86–1874–000 and ST86–2445–000, Louisiana Resources Company
CAG–24.
Docket No. CI78–1179–004, Dorchester Gas Producing Company
CAG–25.
Docket No. CI86–52–000, Pogo Producing Company
Docket No. CI86–180–000, Holden Energy Corporation
CAG–26.
Docket Nos. CI86–254–001 and CI86–265–001, Tenneco Oil Company, Et Al.
CAG–27.
Docket No. CI86–403–000, Sonat Exploration Company
CAG–28.
Docket No. CI86–708–000, Nicor Exploration Company
CAG–29.
Docket Nos. TC85–19–001, 002 and 003, El Paso Natural Gas Company
CAG–30.
Docket No. CP86–439–003, Southern Natural Gas Company
CAG–31.
Docket No. CP84–94–005, ANR Pipeline Company
CAG–32.
Omitted
CAG–33.
Docket No. CP86–644–000, Southern Natural Gas Company
CAG–34.
Docket No. CP86–686–000, Southern Natural Gas Company
CAG–35.

Docket Nos. CP84–654–015, 016 and 017, Algonquin Gas Transmission Company
CAG–36.
Docket No. CP85–447–003, Colorado Interstate Gas Company
CAG–37.
Docket No. CP76–84–002, Northern States Power Company—Wisconsin
Docket No. CP86–267–000, Midwestern Gas Transmission Company
Docket No. CP86–297–000, Wisconsin Gas Company
Docket No. CP86–350–000, ANR Pipeline Company
CAG–38.
Docket Nos. CP86–232–000, CP86–486–000, CP86–504–000, CP86–551–000, CP86–573–000, CP86–598–000, CP86–645–000, CP86–655–000, CP86–660–000, CP86–669–000, CP86–670–000 and CP86–671–000, Pahandle, Eastern Pipe Line Company
Docket No. CP86–584–000, Independent Petroleum Association of Mountain States v. Panhandle Eastern Pipe Line
Docket No. CP86–663–000, Independent Petroleum Association of Mountain States v. Colorado Interstate Gas Company
CAG–39.
Docket No. CP84–252–001, Trans-Appalachian Pipeline, Inc.
CAG–40.
Docket Nos. CP86—747–001, 002, CP86–265–000, 001 and CP86–406–001, Transcontinental Gas Pipe Line Corporation

I. Licensed Project Matters

P–1.
Project No. 9552–000, Deferiet Corporation
Project No. 9554–000, Colton Hydro Corporation
Project No. 9555–000, Higley Corporation
Project No. 9567–000, Hannawa Corporation
Project No. 9556–000, Kamargo Corporation
Project No. 9557–000, Black River Hydro Corporation
Project No. 9564–000, Norwood Hydro Corporation
Project No. 9565–000, Raymondville Hyrdo Corporation
Project No. 9566–000, East Norfolk Hydro Corporation
Project No. 9553–000, School Street Hydro Corporation
Project No. 9563–000, Herrings Hydro Corporation
Project Nos. 2569–000, 2330–000 and 2539–000, Niagara Mohawk Power Corporation. P–1 and P–6 involve applications for preliminary permits for unutilized capacity at licensed hydropower projects; opposition by existing licensee.
P–2.
Omitted
P–3.
Omitted
P–4.
Omitted
P–5.
Omitted
P–6.
Project No. 9558–000, Carry Falls Corporation
Project No. 2060–000, Niagara Mohawk Power Corpopration
P–7
Docket Nos. EL80–39–000 and 001, Philadelphia Electric Company
Project No. 405–020, Susquehanna Power Company. Opinion on initial decisions in Phases I and II of Docket No. EL80–38–001 regarding fishery issues on the Susquehanna

II. Electric Rate Matters

ER–1.
Docket No. ER87–65–000, West Texas Utilities Company. Order on request for a two-step rate increase.
ER–2.
Docket No. ER78–417–007, Kentucky Utilities Company. Opinion and order on remand regarding cancellation notice provisions.
ER–3.
Docket Nos. EF85–2011–005, and EF85–2021–005, U.S. Department of Energy—Bonneville Power Administration. Order on Bonneville Power Administration's proposed non-firm, non-regional rates under section 7(k) of the Pacific Northwest Electric Power Planning and Conservation Act.
ER–4.
Docket No. EL79–20–003, Buckeye Power, Inc. v. Cincinnati Gas and Electric Company. Order on remand concerning appropriate non-contract rate for wheeling service by Cincinnati Gas & Electric Company to the City of Hamilton, Ohio through BMCI.
ER–5.
Docket No. EL81–14–002, American Municipal Power-Ohio, Inc. and City of St. Marys, Ohio v. Dayton Power & Light Company. Opinion and order on remand cocerning interpretation of wheeling contract between Dayton Power & Light Company and Buckeye Power, Inc.
ER–6.
Docket No. EL86–27–000, Sacramento Municipal Utility District v. Pacific Gas and Electric Company. Order on motion by Pacific Gas and Electric Company to dismiss complaint filed by Sacramento Municipal Utility District.

Miscellaneous Agenda

M–1.
Docket No. RM86–12–000, generic determination of rate of return on common equity for public utilities. Consideration of comments on notice of proposed rule-making issued July 21, 1986.
M–2.
Reserved
M–3.
Reserved
M–4.
Docket No. RM79–76–250 (Texas–9 Addition II), high-cost gas produced from tight formations. Order on Rehearing.
M–5.
Docket No. GP86–35–000, Colorado Oil & Gas Conservation Commission, Section 107(c) (5) NGPA determinations, John P. Lockridge, Operator Inc., Devlin #13–33 well, et al., JD86–19537 through JD86–19542
Docket No. GP86–43–000 Colorado Oil & Gas Conservation Commission, Section 107(c) (5) NGPA determinations, John P. Lockridge Operator Inc., Lippert #21–30 well, JD86–23514
Docket No. GP86–47–000 (consolidated), Colorado Oil & Gas Conservation Commission, Section 107(c) (5) NGPA determinations, John P. Lockridge Operator Inc., Helling #32–35 well, JD86–27160. Order on protests and requests to reopen well category determinations.

I. Pipeline Rate Matters

RP–1.
Docket Nos. TA82–2–9–000 and TA83–1–9–000, Tennessee Gas Pipeline Company, a division of Tenneco Inc. Opinion on initial decision regarding affiliated entities issue.
RP–2.
Docket Nos. RP82–80–000, 021 and CP82–542–000, ANR Pipeline Company. Opinion on initial decision regarding cost classification, cost allocation, rate design, and minimum bill issues.
RP–3.
Docket No. RP82–55–000, Transcontinental Gas Pipe Line Corporation. Opinion on initial decision regarding cost classification, cost allocation, rate design, and minimum bill issues.
RP–4.
(A)
Docket No. RP85–169–004, RP81–80–010 and RP82–115–000, Consolidated Gas Transmission Corporation. Order No. 436 rate settlement.
(B)
Docket No. CP86–311–000, Consolidated Gas Supply Corporation. Order No. 436 blanket certificate application.
(C)
Docket No. CP86–312–000, Consolidated Gas Transmission Corporation. Related limited-term blanket abandonment and certificate.

II. Producer Matters

CI–1.
Reserved

III. Pipeline Certificate Matters

CP–1.
Docket No. CP86–423–000, Great Lakes Gas Transmission Company
Docket No. CP86–419–000, ANR Pipeline Company
Docket Nos. CP86–329–000 and CP86–330–000, Erie, Pipeline Company
Docket Nos. CP86–333–000, and CP86–334–000, Transylvania Gas Pipeline Company
Docket Nos. CP86–452–000, and CP86–455–000, Transco Gas Services, Inc.
Docket No. CP86–453–000, Transco Gas Services, Inc. and Transcontinental Gas Pipe Line Corporation. Related applications for section 7(c) and Order No. 436 optional certificate authorization to construct and operate interstate pipeline facilities and to transport gas from Louisiana and Canada to the Northeastern U.S.
CP–2.
Docket No. CP86–263–000, American Distribution Company (Alabama

Division). Application for section 7(c) authorization to transport gas for Kerr-McGee Chemical Corporation in Alabama and to construct and operate related sales tap facilities.

CP-3.

Docket No. CP85-78-000, Mountain Fuel Resources, Inc. Request for determination of jurisdictional status of delivery point facilities, and related section 7 authorization.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-28088 Filed 12-11-86; 10:28 am]

BILLING CODE 6717-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 51 FR 44005, December 5, 1986.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: Approximately 11:00 a.m., Wednesday, December 10, following a recess at the conclusion of the open meeting.

CHANGES IN THE MEETING: One of the items announced for inclusion at this meeting was consideration of any agenda items carried forward from a previous meeting; the following such closed item(s) was added:

1. Proposed change in payroll computation procedures. (This item was originally announced for a closed meeting on December 1, 1986.)

2. Federal Reserve Bank and Branch director appointments. (This item was originally announced for a closed meeting on November 18, 1986.)

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: December 10, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 28103 Filed 12-11-86 11:00 am]

BILLING CODE 6210-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 10:00 a.m., Friday, December 19, 1986.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Considered.

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSONS FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: December 11, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-28191 Filed 12-11-86; 4:00 pm]

BILLING CODE 6210-01-M

RAILROAD RETIREMENT BOARD

Notice is hereby given that the meeting of the Railroad Retirement Board which was scheduled on December 16, 1986, 9:00 a.m., at the Board's meeting room on the 8th floor of its headquarters building, 844 Rush Street, Chicago, Illinois, 60611, is hereby cancelled.

The person to contact for more information is Beatrice Ezerski, Secretary to the Board, Com. No. 312-751-4920, FTS No. 387-4920.

Dated: December 10, 1986.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 86-28176 Filed 12-11-86; 3:23 pm]

BILLING CODE 7905-01-M

TENNESSEE VALLEY AUTHORITY

TIME AND DATE: 10 a.m. (e.s.t.), Wednesday, December 17, 1986.

PLACE: TVA West Tower Auditorium, 400 West Summit Hill Drive, Knoxville, Tennessee.

STATUS: Open.

AGENDA

Approval of minutes of meeting held on November 21, 1986.

Discussion Item

1. Skills Development.

Action Items

Old Business

1. Sale of Permanent Easement to South Central Bell Telephone Company for the Construction, Operation, and Maintenance of a Telephone Equipment Building, Affecting Approximately 0.06 Acre of Wheeler Reservoir Land Located in Limestone County, Alabama—Tract No. XWR-617B.

New Business

A—Budget and Financing

A1. Modification of Fiscal Year 1987 Capital Budget Financed from Power Proceeds and Borrowings—Replacement of Safe End Nozzles on Unit 2 at Browns Ferry Nuclear Plant.

B—Purchase Awards

B1. Invitation CC-463537—Requirement Contract for Crushed Limestone for Widows Creek Fossil Plant.

B2. Amendment to Contract 81TJ3-609081 with IBM Corporation to Provide for Purchase of Hardware and Services.

B3. Proposal YA740616—Indefinite Quantity Term Agreement for Office Automation Systems.

B4. Authorization to Approve Advanced Payments for Service Contracts on Automated Data Processing Equipment and Sofeware in Certain Circumstances.

C—Power Items

C1. Renewal Power Contract with City of Morristown, Tennessee.

C2. Renewal Power Contract with Franklin Electric Cooperative of Russellville, Alabama.

C3. Renewal Power Contract with Powell Valley Electric Cooperative of Jonesville, Virginia.

C4. Supplement No. 2 to Interagency Agreement Between TVA and Bonneville Power Administration for Inspection Services—Contract No. TV-62455A.

C5. Supplement to Cooperative Agreement No. TV-64342A with the University of Louisville Research Foundation to Provide for Continuation of Cooperative Research Effort Related to Different Types of Limestones Used in the Atmospheric Fluidized Bed Combustion Process.

C6. Revisions to the Commercial and Industrial Conservation and Energy Management Program.

D—Personnel Items

D1. Recommendations for Hourly and Annual Trades and Labor Employees Resulting from Negotiations Between TVA and the Tennessee Valley Trades and Labor Council—51st Annual Wage Conference.

D2. Pay Adjustment for Upper Level Management Schedule Employees.

D3. Consulting Contract with Duff & Phelps, Chicago, Illinois, Covering Arrangements for Services of William A. Abrams to Advise on Financing of the TVA Power Program, Requested by Office of Power.

D4. Supplement to Personal Services Contract No. TV-67403A with BCP Technical Services, Inc., New Orleans, Louisiana, for Engineering and Related Support Services at Browns Ferry Nuclear Plant, Requested by the Office of Nuclear Power.

D5. Supplement to Personal Services Contract No. TV-67405A with Nuclear Energy Consultants, Inc., Rockville, Maryland, for Engineering and Related Support Services at Browns Ferry Nuclear Plant, Requested by the Office of Nuclear Power.

D6. Extension and Amendment of Personal Services Contract No. 69851A with Arthur Andersen & Company, Atlanta, Georgia, for Assistance in Connection with Office of Nuclear Power's Financial Management and Reporting System, Requested by the Office of Nuclear Power.

E—Real Property Transactions

E1. Grant of Permanent Easement to State of Alabama Highway Department for Construction, Operation, and Maintenance of

a Public Highway, Affecting Approximately 0.65 Acre of Guntersville Reservoir Land in Jackson County, Alabama—Tract No. XTGR-150H.

E2. Sale of 10-Year Term Easement Extension to Inman Enterprises, Incorporated, for Operation and Maintenance of an Existing Barge Loading Terminal, Affecting Approximately 10.5 Acres of Guntersville Reservoir Land in Jackson County, Alabama—Tract No. XGR-7191E.

E3. Grant of Permanent Easement to State of Tennessee for Public Recreation Purposes, Affecting 33.6 Acres of Kentucky Reservoir Land in Benton County, Tennessee—Tract No. XTGIR-131RE.

E4. Revision of Kentucky Reservoir Land Management Plan to Provide for Allocation of Approximately 18.8 Acres of Kentucky Reservoir Land in Perry County, Tennessee, for Public Recreation—Tract No. XGIR-276PT.

E5. Resolution Declaring as Surplus Phosphate Properties of Every Kind Held by TVA in Giles County, Tennessee, and Authorizing Sale at Public Auction.

F—Unclassified

F1. Supplement No. 2 to Interagency Agreement No. TV-69546A with the U.S. Forest Service, Department of Agriculture, Providing for Continued Assistance to the Forest Service with its Pilot Test on the George Washington National Forest, Harrisonburg, Virginia.

F2. Memorandum of Agreement (TV-70400A) with the Mayor's Employment and Training Resources Agency of the Metropolitan Government of Nashville and Davidson County, Covering Arrangements for an Operating Engineer Training Program, under the State of Tennessee's Job Training Partnership Act Project.

F3. Agreement with Wallace State Community College, Hanceville, Alabama, for the Development and Implementation of a Skills Development Training Program.

F4. Revised Organization Bulletin for TVA.

F5. Revised TVA Code Relating to Expression of Staff Views.

F6. TVA Code Relating to Hospitality.

F7. Proposed Amendments to TVA Retirement System Rules and Regulations.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632-8000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245-0101.

Dated: December 10, 1986.

W.F. Willis,

General Manager.

[FR Doc. 86-28075 Filed 12-11-86; 10:30 am]

BILLING CODE 8120-01-M

Corrections

Federal Register
Vol. 51, No. 240
Monday, December 15, 1986

This section of the FEDERAL REGISTER contains editorial corrections of previously published Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency-prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF TRANSPORTATION

Urban Mass Transportation Administration

UMTA Fiscal Year 1987 Sections 9 and 18 Formula Grant Apportionments

Correction

In the notice document beginning on page 44546 in the issue of Wednesday, December 10, 1986, make the following correction:

On page 44562, in the file line at the end of the document, the FR Document number was incorrect and should have read "86–27754".

BILLING CODE 1505-01-D

federal register

Monday
December 15, 1986

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Part 71

Establishment of Airport Radar Service Area; Spokane International Airport and Fairchild AFB, WA; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 86-AWA-35]

Establishment of Airport Radar Service Area; Spokane International Airport and Fairchild AFB, WA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action designates Airport Radar Service Areas (ARSA) at Spokane International Airport, WA, and Fairchild AFB, WA. The locations designated are a public airport and a military airport at which nonregulatory Terminal Radar Service Area (TRSA) is currently in effect. Establishment of each ARSA will require that pilots maintain two-way radio communication with air traffic control (ATC) while in the ARSA. Implementation of ARSA procedures at these locations will reduce the risk of midair collision in terminal areas and promote the efficient control of air traffic.

EFFECTIVE DATE: 0901 UTC, January 15, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Burns, Airspace and Air Traffic Rules Branch (ATO-230), Airspace—Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9253.

SUPPLEMENTARY INFORMATION:

History

On April 22, 1982, the National Airspace Review (NAR) plan was published in the **Federal Register** (47 FR 17448). The plan encompassed a review of airspace use and the procedural aspects of the air traffic control (ATC) system. The FAA published NAR Recommendation 1-2.2.1, "Replace Terminal Radar Service Areas (TRSA) with Model B Airspace and Service (Airport Radar Service Areas)," in Notice 83-9 (48 FR 34286, July 28, 1983) proposing the establishment of ARSA's at Columbus, OH, and Austin, TX. Those locations were designated ARSA's by SFAR No. 45 (48 FR 50038, October 28, 1983) in order to provide an operational confirmation of the ARSA concept for potential application on a national basis. The original expiration dates for SFAR 45, December 22, 1984, for Austin and January 19, 1985, for Columbus were extended to June 20, 1985 (49 FR 47176, November 30, 1984).

On March 6, 1985, the FAA adopted the NAR recommendation and amended Parts 71, 91, 103 and 105 of the Federal Aviation Regulations (14 CFR Parts 71, 91, 103 and 105) to establish the general definition and operating rules for an ARSA (50 FR 9252), and designated Austin and Columbus airports as ARSA's as well as the Baltimore/Washington International Airport, Baltimore, MD (50 FR 9250). Thus far the FAA has designated 67 ARSA's as published in the **Federal Register** in the implementation of this NAR recommendation.

On July 18, 1986, the FAA proposed to designate ARSA's at Spokane International Airport, WA, and at Fairchild AFB, WA, (51 FR 26116). This rule designates an ARSA at each of these airports. Interested parties were invited to participate in this rulemaking proceeding by submitting comments on the proposal to the FAA. Additionally, the FAA has held informal airspace meetings for these proposed airports.

Discussion of Comments

The FAA has received comments on the basic ARSA program as well as comments directed toward the proposed individual designation. Additionally, several of the comments on individual designation are common or speak to the basic program itself. Discussion of the comments is divided into two sections. The first addresses common and ARSA program comments, the second addresses comments on the proposals at Spokane and Fairchild AFB.

ARSA Program Comments

Aircraft Owners and Pilots Association (AOPA) and others commented that, notwithstanding the statement by the FAA in the Regulatory Evaluation contained in the notice, increased air traffic controller personnel and equipment would be needed to handle the increased traffic expected due to the mandatory provisions of the ARSA. FAA's experience with the current ARSA's has been that while there is an increase in the amount of traffic being handled by controllers, this increase is significantly offset by the reduction in the amount of control instructions that must be issued under ARSA procedures as compared to TRSA procedures. However, the FAA recognizes that the potential exists for a need to establish additional controller positions at some facilities due to increased workload should the expected efficiency improvements in handling traffic not fully offset the increased number of aircraft handled. Further, FAA does not expect to incur additional equipment costs in implementing the ARSA program. In some instances, previously adopted plans to replace or modify older existing equipment may be rescheduled to accommodate the ARSA program. However, no new equipment is expected to be required as a result of the ARSA program.

Several commenters, including AOPA, disagreed with the FAA's conclusion that the additional air traffic could be accommodated with existing manpower at locations where TRSA participation was low. The FAA's conclusion for the total program was in part based upon the fact that participation in the existing TRSA's was quite high and, therefore, an increase from the present levels to 100% would not be a significant change. The commenters, while not agreeing with this conclusion, claimed that the FAA's rationale did not apply where participation was low and thus additional manpower would be needed at these locations if ARSA was designated. The FAA recognizes that participation in the TRSA program is relatively low at some of the candidate locations. However, this is in large part due to the controllers' walkout of 1981 and the subsequent reduction in fully qualified controllers which led to the discontinuance of TRSA services. A sufficient number of controllers is assigned at the facilities to which the commenters refer and those facilities are ready to provide the service to the increased number of pilots. This factor was considered by the FAA in its initial evaluation of the ARSA program.

The Soaring Society of America (SSA) objected to the ARSA program because it does not provide the same level of safety and service to all classes of aviation. As with other regulations, this rule affects different operators in different ways depending on their respective need to operate in controlled airspace or near the airports involved. The FAA does not agree that this variation in impact is reason not to adopt a rule which benefits the majority of users.

AOPA and others claim the FAA is changing the criteria that an operating control tower is the only requirement for an airport to be eligible for an ARSA. The FAA has not departed from the NAR criteria which would replace TRSA with ARSA at airports with an operating control tower served by a level III, IV, or V Radar Approach Control Facility.

The SSA claimed that the ARSA rule should state that the ultimate responsibility for separation from other aircraft operating in visual flight rule (VFR) conditions rests with the pilot.

While the FAA agrees that such is the case, the agency does not agree that the ARSA rule must so state. Unless a new or amending provision to the Federal Aviation Regulations (FAR) specifically deletes, amends, or supersedes existing sections, the existing regulations still apply. The ARSA rule (50 FR 9252, 9257, March 6, 1985) did not alter the sections of the FAR that establish that level of responsibility.

AOPA faulted the FAA's implementation of the ARSA program. The FAA stated in the proposal that the benefits of standardization and simplicity were nonquantifiable, and that the safety benefits anticipated by the FAA were not attributable to any given candidate but were based upon implementation of the program on a national basis. According to AOPA this evidenced the need to further evaluate the program at the current locations so that benefits could be individually assessed and each candidate evaluated accordingly. The FAA does not agree. The benefits of standardization and simplicity would always be nonquantifiable regardless of the amount of evaluation, yet they received considerable emphasis by the NAR Task Group. Overall national midair collision accident rates are relatively low, and accident rates within individual categories of airspace are lower still. Additionally, accidents at specific locations are random occurrences. Therefore, estimates of potential reductions in absolute accident rates resulting from the ARSA program cannot realistically be disaggregated below the national level. Additionally, the FAA does not believe that these considerations should be cause for delaying a program that was recommended by a majority of the members of the National Airspace Review, and which has already produced positive results at most of the designate locations.

Numerous commenters also objected to the proposals based upon their belief that the volume of air traffic in several of the proposed locations was too great for the ARSA program. The FAA believes that such a point argues strongly for the establishment of an ARSA rather than the converse.

Some commenters, including AOPA, predicted that user costs incurred due to delays will be greater than was estimated by the FAA, and that these costs will be experienced more at some sites than at others. In the NPRM, FAA acknowledged that initial delay problems would vary from site to site, that estimates of delays were quite preliminary, that at some facilities the transition process is expected to go very smoothly, and that at other sites delay problems will dominate the initial adjustment period. These cost estimates are expected to be transitory in nature in that actual delays will be reduced as pilots and controllers become experienced with ARSA procedures. This has been the case at the three locations where ARSA has been in effect for an appreciable period, and is the trend at those locations more recently designated.

Several comments claimed that some aircraft would have to purchase two-way radios in order to enter the ARSA and land at or depart from airports within the ARSA. The FAA does not agree. Each primary airport receiving ARSA designation has an airport traffic area requiring two-way radio communications at present. Therefore, no additional cost will be incurred for purchase of radios for aircraft landing at or departing from primary airports receiving ARSA designation.

Further, some commenters, including AOPA, expressed concern that older 360 channel transceivers would not be adequate to operate within an ARSA. Frequencies compatible with 360 channel transceivers are available at all ARSA locations. Therefore, operators of 360 channel equipment will not need to install new radios to operate within an ARSA.

AOPA and other commenters stated that the proposed ARSA's would derogate rather than improve safety, as a result of increased frequency congestion, pilots concentrating on their instruments and placing too much reliance upon ATC rather than "see and avoid," and the compression of air traffic into narrow corridors as pilots elect to circumnavigate an ARSA rather than receive ARSA services. In addition to increasing the risk of aircraft collision, the commenters claimed that compression would increase the impact of aircraft noise on underlying communities and cause aircraft to be flown closer to obstructions.

As indicated above, while an increased number of aircraft will be using radio frequencies, the amount of "frequency time" needed for each aircraft is reduced in an ARSA compared to the current TRSA. This has been the experience of the FAA at the current ARSA facilities.

AOPA claims that since the communications and readback procedures in ARSA's do not differ from those utilized in TRSA's there would be no reduction in "frequency time" needed for each pilot to acknowledge instructions or information, and thus, the partial offset indicated by the FAA was not justified. The offset is based upon fewer as well as shorter transmissions for each pilot, thus the FAA does not agree with this claim.

The FAA evaluated the flow of air traffic around the Austin, TX, and Columbus, OH, ARSA's during the confirmation period to determine if compression was occurring. This evaluation was performed by observing the radar at Austin, TX, and by both radar observations and the use of extracted computer data at Columbus, OH. Following the designation of an ARSA at Baltimore/Washington International Airport (BWI), the FAA evaluated the flow of air traffic there for a period of 90 days by observing the radar and extracting computer data to determine if compression was occurring. Additionally, the FAA has continually monitored for the possibility of compression at all recently designated locations. Compression has not been detected at any of these locations. However, compression of air traffic is a site-specific effect that could occur at a particular location regardless of its absence elsewhere. Thus, although the FAA does not believe compression of traffic will occur at any of the proposed airports, the agency will continue to monitor each designated ARSA and make adjustments if necessary.

AOPA, and other commenters claimed that the FAA provided no demonstrable evidence that the ARSA program would improve aviation safety. The FAA continues to believe the implementation of the ARSA program will enhance aviation safety. The program requires two-way radio communication between ATC and all pilots within the designated areas. Air traffic controllers will thus be in a much improved position to issue complete traffic information to the pilots involved, and thus, safety will be improved.

AOPA, and several other commenters, requested that VFR corridors be established at several of the subject locations along routes that are currently contained within an airport traffic area (ATA). The NAR Task Group noted in their evaluation of the TRSA program that under FAR § 91.87 pilots operating under VFR to or from a satellite airport within an ATA are excluded from the two-way rado communications requirement. The Task Group noted that this was acceptable until the volume of air traffic at the primary airport dictated the installation of a radar approach control. The Task Group recommended, and the FAA adopted, the ARSA program as a safety improvement addressing this problem. Thus, the FAA

does not believe provisions for VFR corridors that penetrate an ATA in most cases are warranted or in keeping with that recommendation.

One commenter claimed that the grouping of ARSA's such as that adopted in the Sacramento Valley area would create "squeezing" of traffic in the corridors between the blocks of ARSA airspace. One area in question, between Sacramento and Beale Air Force Base (AFB), is approximately 20 miles wide. The FAA does not agree that "squeezing" will occur in this area. Additionally, other user organizations have requested VFR corridors between adjacent or grouped ARSA's and these ARSA's have been modified to accommodate this request.

AOPA and others commented that several of the proposals will require pilots to violate FAR § 91.79 (14 CFR 91.79) regarding minimum safe altitudes. The section states in part, "Except when necessary for takeoff or landing, no person may operate an aircraft below . . . an altitude of 1,000 feet above the highest obstacle within a horizontal radius of 2,000 feet of the aircraft [when over any congested area of a city, town, or settlement, or over any open air assembly of persons]." The commenters claim that the 1,200-foot base altitude of the 5- to 10-mile portion of the ARSA will force pilots to violate FAR § 91.79 where obstacles extend more than 200 feet above the ground. There are two alternatives available to pilots in such a situation which permit compliance with the regulation. Namely, pilots may participate in ARSA services and thus not be limited to the 1,200-foot base, and secondly, a pilot may deviate 2,000 feet horizontally from the obstacle.

Furthermore, AOPA claims that the above response does not adequately respond to the issue. They claim that deviations of 2,000 feet horizontally would increase workload and reduce the efficiency of see-and-avoid, and thus, potentially reduce safety. The FAA does not encourage deviation but encourages participation which will not require deviation and will result in controllers providing radar assistance for see-and-avoid.

Several commenters noted that the proposal did not contain an environmental assessment. Under existing environmental regulations the proposed establishment of a Terminal Control Area (TCA) or a TRSA does not require an environmental assessment. The agency environmental regulations have not yet been amended to reflect ARSA procedures. However, because the potential environmental impact and regulatory effects of ARSA designation fall between those of the TCA and TRSA designations, the FAA finds that no environmental assessment is required for an ARSA designation.

AOPA, the Experimental Aircraft Association (EAA), and other commenters indicated that the FAA had failed to demonstrate a need for the ARSA program itself, as well as a need for several of the individual proposed locations. Additionally, comments were received that faulted some of the features of the ARSA. Most of these comments went beyond the scope of the subject proposal and were addressed when the FAA adopted the recommendation of National Airspace Review (NAR) Task Group 1–2.2 (50 FR 9252, March 6, 1985). However, the FAA believes the need for the ARSA program was adequately demonstrated by the task group that reviewed the TRSA program and recommended the ARSA as the former's replacement. The task group faulted the TRSA program in several of its aspects and through consensus agreement determined the preferred features of the ARSA prior to making their recommendation to the FAA. Justification for the ARSA program has been the subject of previous FAA rulemaking, and the program was adopted after consideration of public comment. Response to comments on ARSA's at particular locations is made below.

AOPA, EAA, and others commented that several of the proposed ARSA's failed to meet the criteria for designation. The criteria for this airport was recommended by the NAR Task Group and adopted by the FAA. Namely, ". . . excluding TCA locations, all airports with an operational airport traffic control tower and currently contained within a TRSA serviced by a Level III, IV, or V radar approach control facility shall have [an ARSA] designated; unless a study indicates that such designation is inappropriate for a particular location." (49 FR 47184, November 30, 1984).

AOPA, EAA, and others commented that the existence of a TRSA in the above mentioned category should not be considered as justification for an ARSA. After a review of all comments received to the above referenced proposal, the FAA adopted that NAR recommendation (50 FR 9252, March 6, 1985). Therefore, absent a finding that designation would be inappropriate, the existence of a TRSA within that criteria is deemed sufficient for designation.

AOPA, EAA, and others indicated that several of the proposed locations do not meet the criteria that the FAA is considering for future ARSA candidates. The FAA has adopted criteria for future application. However, whatever the nature of any follow-on criteria adopted, this group of locations which qualify as ARSA candidates under the adopted NAR criteria would not be affected.

Several commenters suggested the top of the ARSA be lowered from 4,000 feet above field elevation. Absent strong justification for lowering this altitude, the FAA has not adopted these recommendations. The agency's rationale for nonadoption is set forth immediately above.

Several commenters, including AOPA and EAA, indicated that at several of the proposed ARSA's the TRSA was working quite well and that there was no need to change something that was working. The FAA acknowledges that TRSA's are functional and beneficial, to a point. However, the NAR Task Group did not fault individual TRSA locations but the TRSA program itself and recommended its replacement. The FAA concurred with that assessment and has determined that the ARSA program is an improvement over the TRSA program from the standpoints of both safety and service. Thus, the quality of service being provided at TRSA locations should not constitute a roadblock to improvement.

Several commenters claimed the reduced separation standards of the ARSA program would derogate rather than enhance safety. The elimination of the Stage III separation requirements was recommended by users, all of whom are vitally interested in aviation safety, and adopted by the FAA. This aspect of the ARSA program received considerable FAA attention during the confirmation period at Austin, TX, and Columbus, OH. The FAA agrees with the task group that the Stage III separation standards are not needed for safety in a mandatory participation area.

Several commenters requested that the ARSA be described in statute rather than nautical miles. Numerous user organizations and the NAR itself have recommended that the FAA adopt nautical-mile descriptions rather than statute. It is the intention of the FAA to establish all new descriptions according to that recommendation.

Several commenters objected to proposals where the ARSA was in proximity to other airports. According to these commenters pilots would not know whether they should be in contact with the ARSA approach control facility or in contact with the control tower at the secondary airport, or on unicom. The FAA does not view this situation as different from that existing at many of these locations today. Through pilot education programs and experience with

ARSA procedures this situation will improve. Also, as at present, when a pilot contacts the wrong FAA facility the controllers will give appropriate instructions.

AOPA, and other commenters objected to several of the proposed ARSA's based upon the claim that the FAA had failed to evaluate the cumulative effect of the proposed ARSA's and other regulatory airspace. The evaluation for each ARSA included all factors known to the FAA, including the proximity of other regulatory airspace.

Underlying a great many of the comments received was the idea that some provision should be made so that pilots could continue their current practices without contacting the responsible ATC facility. While the FAA has made modifications from the standard ARSA in cases where circumstances warrant, the basic thrust of the ARSA program is to require two-way communication with the responsible approach control facility, and not to make modifications in the program to provide for nonparticipation.

AOPA commented that FAA understimated the one-time cost of distributing Letters to Airmen and the Advisory Circular, and neglected costs related to the informal public meetings. Both of these issues were discussed in the detailed regulatory evaluation of the NPRM, which has been available in the regulatory docket since publication of the NPRM. The availability of this detailed evaluation was indicated in the introductory paragraph of the regulatory evaluation summary included in the **Federal Register** NPRM (51 FR 26116, July 18, 1986). AOPA's comments assumed that every active pilot would be notified at least once. However, FAA intends to mail individual Letters to Airmen only to those pilots living in the vicinity of ARSA sites, and consequently its cost estimate is less than that of AOPA. The total one-time cost of distributing Letters to Airmen and the Advisory Circular was also prorated to reflect only those sites included in the notice, and both total and prorated cost estimates were provided in the notice. Further, as FAA indicated in the detailed regulatory evaluation, the expenses associated with public meetings will be incurred regardless of whether or not an ARSA is ultimately established at a proposed site, and consequently these expenses are more appropriately considered sunken costs attributable to the rulemaking process rather than implementation costs of the ARSA program. Similarly, information on ARSA's following the establishment of a new site will also be disseminated at aviation safety seminars conducted throughout the country by various district offices. These seminars are regularly provided by the FAA to discuss a variety of aviation safety issues, and, therefore, will not involve additional costs strictly as a result of the ARSA program.

Additionally, no significant costs are expected to be incurred as a result of the follow-on user meetings. These meetings are being held at public or other facilities which are being provided free of charge or at nominal cost. Further, because these meetings are being conducted by local FAA facility personnel, no travel, per diem, or overtime costs will be incurred by regional or headquarters personnel.

SSA faulted the FAA for using the aviation safety seminars for pilot education on ARSA's. They claim these seminars do not reach many pilots and the seminars are reserved during this year for the FAA "Back to Basics" program. The FAA does not agree. The aviation safety seminars are for all pilots and for education on all aspects of aviation which would include the ARSA program.

SSA commented that the FAA should take into consideration the unique operating characteristics of gliders in defining the ARSA airspace at some locations. The FAA has modified the configurations of the ARSA at locations where glider operations would be adversely affected by a standard configuration.

Numerous commenters objected to the ARSA designations claiming they would simply provide the FAA with the basis for additional regulatory restrictions. The FAA does not believe this to be a valid objection. While the agency has no current plans for further regulatory action which imposes additional restrictions, such action if it should ever become a reality would be the subject of additional rulemaking and would of necessity be judged on its own merits, as should these proposals.

The Air Line Pilots Association (ALPA) concurred with the proposal as an improvement in operational efficiency and a significant contribution to a reduction of midair collision potential.

The Air Transport Association (ATA) endorsed the proposed designations as an improvement in safety with specific comments indicated below.

The General Aviation Manufacturers Association endorsed the ARSA's as an improvement in safety and concurred with the FAA's philosophy regarding some deviation from the standard model.

Comments were received which were supportive of each of the ARSA's addressed here as an improvement in aviation safety, and stating that participation by all pilots was only equitable and that normal safety concerns dictated mandatory two-way communications. The FAA agrees.

Comments on Fairchild AFB, WA, and Spokane International Airport, WA

Several commenters claimed that obstacle clearance from terrain and man-made obstructions would be difficult to maintain in the area southeast of Spokane International Airport. The FAA agrees that the terrain in this southeast area rises rapidly approximately eight miles from the airport. Although it is not a purpose of ARSA design to accommodate nonparticipation, the FAA agrees some relief can be provided. For this reason, the FAA will raise the base of the outer core in this quadrant to accommodate the terrain in this area.

One commenter claimed that Fairchild AFB does not meet the criteria for an ARSA. The criteria adopted by the FAA is that recommended by the NAR which requires that an airport be contained in a TRSA, have an operating control tower, and be served by a Level III, IV, or V radar approach control facility. Fairchild AFB meets this criteria.

Several commenters claimed that student training areas would have to be moved outside the ARSA. Investigation of this claim revealed that no training areas exist within the ARSA lateral or vertical limits. Current procedures allow development of training areas within ARSA airspace if a need is shown and local agreements are reached.

Several commenters claimed that some airports in the ARSA would be adversely affected by implementation of the ARSA. Local agreements between the airport/aircraft operators and the local FAA facility can be reached to accommodate operations at these affected airports.

Several commenters claimed that traffic from Felts Field proceeding west and south would be compressed in certain areas. As stated above, the FAA does not believe compression will occur in this area but will continue to monitor traffic and, if necessary, make adjustments for compression. An alternative to avoiding the ARSA by flying under the "shelf" or circumnavigating the area is to participate in the ARSA services.

One commenter claimed that, in the event of radio failure in VFR conditions

while en route from Canada to Spokane International Airport, he could not comply with the FAR's by landing at an airport other than the airport filed on his flight plan without violating United States Customs regulations. The FAA does not agree. The U.S. Customs regulations are not so inflexible that they would require violating the FAR's in order to adhere to the customs regulations. The customs regulations specifically allow a pilot to land at another airport in the event of an emergency and notify customs as soon as practicable after landing.

The SSA stated that they are not aware of any glider operations normally occurring in the Spokane area. However, they request that local FAA personnel work closely with glider operators who wish to enter the ARSA on long cross countries or who wish to establish local glider operations in the area. The FAA will continue to cooperate with local and cross country glider operators to ensure safety with the minimum impact on both operations.

Other comments were received which were general in nature and were discussed under general comments.

The Air Transport Association responded in favor of the proposed Spokane and Fairchild AFB ARSA's.

The Air Line Pilots Association responded fully in support of the proposal recommending an early implementation.

Other Comments

A number of other comments were received addressing matters beyond the scope of these proposals such as charting, the number of frequencies depicted on a chart, the general design features of an ARSA, etc. The FAA will give consideration to all of the points raised in these comments but will not address them as a part of this rulemaking.

Regulatory Evaluation

Those comments that addressed information presented in the Regulatory Evaluation of the notice have been discussed above. The Regulatory Evaluation of the notice, as clarified by the "Discussion of Comments" contained in the preamble to the final rule, constitutes the Regulatory Evaluation of the final rule. Both documents have been placed in the regulatory docket.

Briefly, the FAA finds that a direct comparison of the costs and benefits of this rule is difficult for a number of reasons. Many of the benefits of the rule are nonquantifiable, especially those associated with simplification and standardization of terminal airspace procedures. Further, the benefits of standardization result collectively from the overall ARSA program, and as discussed previously, estimates of potential reductions in absolute accident rates resulting from the ARSA program cannot realistically be disaggregated below the national level. Therefore, it is difficult to specifically attribute these benefits to individual ARSA sites. Finally, until more experience has been gained with ARSA operations, estimates of *both* the efficiency improvements resulting in time savings to aircraft operators, and the potential delays resulting from mandatory participation, will be quite preliminary.

ATC personnel at some facilities anticipate that the process will go very smoothly, that delays will be minimal, and that efficiency gains will be realized from the start. Other sites anticipate that delay problems will dominate the initial adjustment period.

FAA believes these adjustment problems will only be temporary, and that once established, the ARSA program will result in an overall improvement in efficiency in terminal area operations at those airports where ARSA's are established. These overall gains which FAA expects for the ARSA site established by this rule typify the benefits which FAA expects to achieve nationally from the ARSA program. These benefits are expected to be achieved without any additional controller staffing or radar equipment costs to the FAA.

In addition to these operational efficiency improvements, establishment of this ARSA site will contribute to a reduction in midair collisions. The quantifiable benefits of this safety improvement could range from less than $100 thousand to as much as $300 million, for each accident prevented.

For these reasons, FAA expects that the ARSA site established in this rule will produce long term, ongoing benefits which will exceed their costs, which are essentially transitional in nature.

Regulatory Flexibility Determination

Under the terms of the Regulatory Flexibility Act, the FAA has reviewed this rulemaking action to determine what impact it may have on small entities. FAA's Regulatory Flexibility Determination was published in the NPRM. Some of the small entities which could be potentially affected by implementation of the ARSA program include the fixed-based operators, flight schools, agricultural operations and other small aviation businesses located at satellite airports located within 5 miles of the ARSA center. If the mandatory participation requirement were to extend down to the surface at these airports, where under current regulations participation in the TRSA and radio communication with ATC is voluntary, operations at these airports might be altered, and some business could be lost to airports outside of the ARSA core. Because FAA is excluding almost every satellite airport located within the 5-mile ring to avoid adversely impacting their operations, and in some cases will achieve the same purposes through Letters of Agreement between ATC and the affected airports establishing special procedures for operating to and from these airports, FAA expects to virtually eliminate any adverse impact on the operations of small satellite airports which potentially could result from the ARSA program. Similarly, FAA expects to eliminate potential adverse impacts on existing flight training practice areas, as well as soaring, ballooning, parachuting, ultralight, and banner towing activities, by developing special procedures which will accommodate these activities through local agreements between ATC facilities and the affected organizations. For these reasons, the FAA has determined that this rulemaking action is not expected to affect a substantial number of small entities. Therefore, the FAA certifies that this regulatory action will not result in a significant economic impact on a substantial number of small entities.

The Rule

This action designates Airport Radar Service Areas (ARSA) and Fairchild AFB, WA, and at Spokane International Airport, WA. The locations designated are a public airport and a military airport at which a nonregulatory Terminal Radar Service Area (TRSA) is currently in effect. Establishment of each ARSA will require that pilots maintain two-way radio communication with air traffic control (ATC) while in the ARSA. Implementation of ARSA procedures at these locations will reduce the risk of midair collision in terminal areas and promote the efficient control of air traffic.

For the reasons discussed above, the FAA has determined that this regulation (1) is not a "major rule" under Executive Order 12291; and (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

List of Subjects in 14 CFR Part 71

Aviation safety, Airport radar service areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a) and 1354(a); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.501 [Amended]

2. § 71.501 is amended as follows:

Fairchild AFB, WA [New]

That airspace extending upward from the surface to and including 6,400 feet MSL within a 5-mile radius of Fairchild AFB (lat. 47°36'54" N., long. 117°39'24" W.); and that airspace extending upward from 3,700 feet MSL to and including 6,400 feet MSL within a 10-mile radius of the airport excluding that airspace within the Spokane International Airport, WA, Airport Radar Service Area east of a line extending between the points where the 10-mile radius of Fairchild AFB intersects the 10-mile radius of Spokane International Airport.

Spokane International Airport, WA [New]

The airspace extending upward from the surface to and including 6,400 feet MSL within a 5-mile radius of the Spokane International Airport (lat. 47°37'12" N, long. 117°31'58" W.); and that airspace extending upward from 3,700 feet MSL to and including 6,400 feet MSL within a 10-mile radius of the airport from the 148° bearing from the airport clockwise to the 071° bearing from the airport, and that airspace extending upward from 4,200 feet MSL to and including 6,400 feet MSL within a 10-mile radius of the airport from the 071° bearing from the airport clockwise to the 148° bearing from the airport; excluding that airspace within the Fairchild AFB, WA, Airport Radar Service Area west of a line extending between the points where the 10-mile radius of the Spokane International Airport intersects the 10-mile radius of the Fairchild AFB.

Issued in Washington, D.C., on December 9, 1986.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

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LIST OF PUBLIC LAWS

Note: The listing of public laws enacted during the second session of the 99th Congress has been completed.

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The listing will be resumed when bills are enacted into public law during the first session of the 100th Congress which convenes on January 6, 1987.

CFR CHECKLIST

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An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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[1] No amendments to this volume were promulgated during the period Apr. 1, 1980 to March 31, 1986. The CFR volume issued as of Apr. 1, 1980, should be retained.

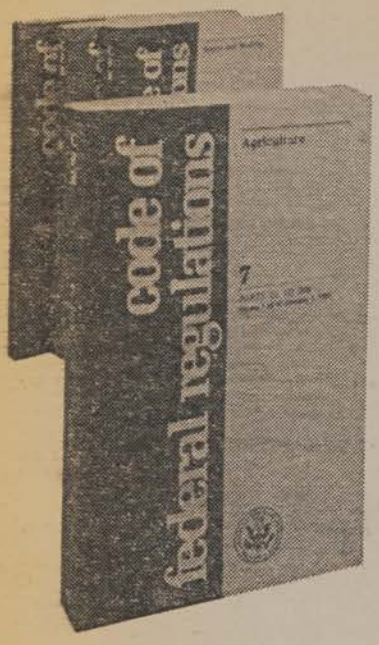
[2] No amendments to this volume were promulgated during the period July 1, 1984 to June 30, 1986. The CFR volume issued as of July 1, 1984, should be retained.

[3] No amendments to this volume were promulgated during the period July 1, 1985 to June 30, 1986. The CFR volume issued as of July 1, 1985 should be retained.

[4] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[5] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[6] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.



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